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ABSTRACT

State profiles of youth in adult courts were compiled for each of the 50 states, the District of Columbia, and the Federal District Courts. This volume contains profiles for the South Central states of Arkansas, Colorado, Kansas, Louisiana, Mississippi, Missouri, New Mexico, Oklahoma, and Texas. The first part of each state profile describes the process by which youths are referred to adult courts and what can happen to them after conviction. Included in this part are descriptions of (1) the court organization, (2) the pertinent statutory provisions in the state code, (3) the relevant cases tried in the state supreme court and the federal courts since 1950, and (4) the correctional placement options for juveniles convicted in adult courts. This information was obtained through a search of the statutes and case law and through telephone interviews with court and correctional officials. The second part of the profile presents data collected from every county in the state on the frequency of referral of youths to adult courts through each of the mechanisms permitted by state law. In addition, demographic information, offense characteristics, and the judgments and sentences received by these youths are described for the most populous counties and for those counties referring five or more juveniles to adult courts in 1978. (KC)

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MAJOR ISSUES IN JUVENILE JUSTICE INFORMATION AND TRAINING

Youth in Adult Courts: Between Two Worlds
South Central Region

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PROFILE VOLUME

INTRODUCTION

State profiles on youth in adult courts were compiled for each of the 50 states, the District of Columbia, and the federal District Courts. For purposes of this study, juveniles were defined as persons under 18 years of age.

There are four mechanisms by which juveniles are referred to adult court for trial:

- Judicial waiver
- Concurrent jurisdiction
- Excluded offenses
- Maximum age of initial jurisdiction below age 18

The first part of each profile describes the process by which youths are referred to adult courts and what can happen to them after conviction. Included in this part are descriptions of (1) the court organization, (2) the pertinent statutory provisions in the state code, (3) the relevant cases tried in the state supreme court and the federal courts since 1950, and (4) the correctional placement options for juveniles convicted in adult courts. This information was generally obtained through a search of the statutes and case law, and telephone interviews with court and correctional officials.

The second part of the profile presents data collected from every county in the United States on the frequency of referral of youths to adult courts, for each of the mechanisms permitted by state law. In addition, demographic and offense characteristics and the judgments and sentences received by these youths are described for at least the ten percent most populous counties and counties referring five or more juveniles to adult courts in 1978.

The survey data were collected in several different ways. (The individual state profiles detail the survey process in each state.) First, in a few states, frequency of referrals by counties were available from a state agency. Second, in 22 states, private consulting companies, advocacy organizations, and volunteer groups collected the data through telephone interviews on behalf of the Academy. In half of the states, Academy personnel conducted telephone interviews. In the latter two instances, personnel from the courts and prosecutors' offices were generally the interviewees. (For more detail on the research strategies, please refer to the methodology chapter in Appendix A.)

ARKANSAS PROFILE

ACKNOWLEDGMENTS

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METHODOLOGY

Frequency data (Phase I) as well as some Phase II data (age, sex, race, and offense information) pertaining to youth referred to adult courts through intake units of juvenile courts were provided by officials in the Arkansas Statewide Juvenile Information System. Unfortunately, this aggregated information included court transfers which are not applicable to the study (e.g., inter-county and interstate transfers). The data pertaining to youth transferred to adult courts from juvenile court intake units could not be distinguished from the other forms of transfers. An attempt was not made to gather this information from the juvenile court intake units themselves.

The Academy employed the Ohio Management and Research Group to collect Phase I and II data (frequencies, age, sex, race, offenses, judgments, and sentences) on youth referred to adult courts who did not have contact with juvenile court intake units. Information on these direct prosecutorial referrals to adult courts was generally available. In addition, attempts were made to gather data on the number of juveniles who were tried in adult courts for traffic offenses. However, the data were not available in any county.

COURT ORGANIZATION

The highest court of general jurisdiction in Arkansas is the circuit court. Circuit courts have original jurisdiction over all criminal cases.

A variety of other courts exercise limited criminal jurisdiction. Misdemeanors and traffic violations are primarily handled in municipal, city, and justice of the peace courts. The municipal courts are generally located in cities with populations of 2,400 or more persons and have jurisdiction similar to the justice of the peace courts--violations of traffic and municipal ordinances. Additionally, these courts hear civil cases where claims do not exceed $300. City courts are located in the smaller municipalities and exercise authority vested in the town mayor--exclusive jurisdictions over violations of city ordinances.

The county courts in Arkansas have exclusive jurisdiction in county matters relating to taxes, expenditures, and claims against the county. However, the county courts also function as trial courts for juvenile matters and bastardy proceedings. In three counties (Jefferson, Pulaski, and Washington), juvenile jurisdiction is exercised by separate juvenile courts. Hereafter, the juvenile divisions of county courts and the three juvenile courts will be referred to collectively as juvenile courts.

Traffic violations involving juveniles are handled in either municipal, city, or justice of the peace courts. Data from a 1976 study by the Office of the Governor in Arkansas indicate that most juveniles tried in adult courts are handled in the circuit or municipal courts.[1]

An overview of Arkansas' courts by their jurisdiction over juveniles in 1978 appears below.

ARKANSAS: COURT JURISDICTION OVER JUVENILES IN 1978

General Juvenile Jurisdiction	Jurisdiction over Transferred Juveniles	Juvenile Traffic
Juvenile Court Divisions of County Courts (72 counties) Juvenile Courts (three counties)	Circuit Courts, City Courts, City Courts, Justice of the Peace Courts, Municipal Courts	Justice of the Peace Courts, Municipal Courts, City Courts

TRANSFER PROCESS

The initial age of juvenile court jurisdiction in Arkansas extends to 18 years of age.[2] In 1978, there were two legal mechanisms by which juveniles were tried in adult courts--concurrent jurisdiction and excluded offenses.

Arkansas was one of only four states which did not have a judicial waiver provision.

Concurrent Jurisdiction

Juvenile and adult courts shared jurisdiction over all crimes involving juveniles except traffic violations. Any juvenile 12 years of age or older who was arrested without a warrant was initially brought before a juvenile court. In practice, juveniles under 15 years of age were always handled as juveniles. Juvenile authorities then notified the prosecuting authorities who decided whether to prosecute the youth as a delinquent in the juvenile court, or to file criminal charges in an adult court.[3] In contrast, juveniles who were arrested pursuant to a warrant, of any age, are simply brought before the court (juvenile or adult) out of which the warrant was issued.[4] For purposes of this profile, this latter provision is termed direct prosecutorial referrals, and the former provision is termed prosecutorial referrals from juvenile intake.

In March 1979, a statutory amendment raised the age at which prosecuting attorneys may decide the forum on an arrest without warrant from 12 to 15.[5] It is our understanding that this corrected a conflict between sections of the juvenile and criminal codes, since the criminal code states that no child under 15 years of age can be tried in adult criminal courts. In practice, all cases involving children under 15 years of age were handled in juvenile courts.

Excluded Offenses

In Arkansas, juveniles charged with non-serious traffic offenses are excluded from the jurisdiction of juvenile courts. Thus, juvenile traffic cases are routinely handled in adult courts.

CASE LAW SUMMARY

Since 1950, the Arkansas Supreme Court has ruled six times on transfer issues. Arkansas statutes, in effect until 1975, conferred discretion upon the circuit court judge to transfer criminal cases against any child under 15 years of age to the juvenile court for disposition.[6] During the same time, Arkansas statutes also provided that where a child under the age of 18 years of age was arrested without warrant, he was to be taken before the juvenile

court which was authorized to examine the case and determine whether to handle it as a criminal or juvenile matter.[7] In Monts v. State, the Arkansas Supreme Court, while recognizing the conflict between these two statutes, noted that both statutes made the matter of transfer discretionary with either court.[8] Hence, it held that a trial court committed no error in refusing to grant the motion to transfer a case to a juvenile court.

In a later case, Cantrell v. Goldberger, it was alleged that Arkansas statutes required that minors be brought before the juvenile court in all cases involving warrantless arrests.[9] The majority, being of the opinion that a later statute granted concurrent jurisdiction to the juvenile and adult courts, declined to adopt this proposition and instead followed a federal district court case, Pritchard v. Downie, in which it had been held that law enforcement officers could elect to take a child before the juvenile court as a delinquent or to have him charged in criminal court as an adult.[10]

In Allen v. State, it was held that it was not an abuse of discretion to require an 18 year old to stand trial, although a psychological examiner gave his opinion that the individual's mental age was between nine and ten years.[11] In Little v. State, decided under a new transfer statute (1975), it was held that there was no abuse of discretion in failing to transfer a first degree murder case lodged against a 14 year old, despite evidence of emotional and mental immaturity.[12] The court indicated that in cases where the trial judge had conducted an extensive hearing, giving the judge a basis for the exercise of sound discretion, his decision would not be overturned except in the face of evidence that he had acted arbitrarily and capriciously. In Stanley v. State, decided under an old statute, the court approved the refusal to transfer another 14 year old, charged with first degree murder from adult to juvenile court.[13]

CORRECTIONS INFORMATION

The Arkansas Department of Corrections administers the state's adult corrections facilities. In addition, the Department of Corrections operates a reformatory for young adult felons.

The state has enacted two youthful offender statutes which provide opportunities for alternative placements to the Department of Corrections facilities. A statute enacted in 1969 provides a youthful offender sentence which is applicable to any male offender convicted of a felony under the age or 18.[14] Trial courts are given the discretion under the statute to sentence youth to either the Youth Services Board (i.e., appointed authorities responsible for the operation of juvenile institutions, created in 1977) for placement in a juvenile institution or to the reformatory operated by the Department of Corrections.

The other youthful offender statute was enacted in 1975 and is entitled the Youthful Offender Alternative Service Act.[15] This statute enables first

or second offenders under the age of 26, excluding those convicted of certain serious offenses, to be diverted to alternative community service programs by the Board of Corrections and the director of the Department of Corrections. Upon completion of the program, these individuals are then eligible to have their records expunged.

The Division of Youth Services, Department of Human Services, is the state agency responsible for administering juvenile corrections facilities in Arkansas. A juvenile who is adjudicated in juvenile court may be sent to a youth services center with minimum-to-maximum levels of security. Delinquents are usually committed to a youth services center for an indeterminate period of time. However, the average length of stay in an institution is approximately 5.3 months.

Youth convicted in adult courts may be sentenced to the Department of Corrections for confinement in an adult institution, or sentenced under either of the youthful offender provisions described above. Additionally, adult courts can commit youth to the Division of Youth Services for placement in a juvenile institution.

Finally, adult courts can simply refer a convicted youth to a juvenile court for dispositional purposes.

If a youth has been tried as an adult and sentenced to an adult institution, administrative transfer to a juvenile facility is possible, but very unusual. There are currently no provisions to administratively transfer an individual from a juvenile facility to an adult facility.

STATE DATA SUMMARY

In Arkansas, concurrent jurisdiction exists between juvenile and adult courts over crimes committed by juveniles 15 years of age or older. When a warrant is issued, the prosecutor in the court that issues the warrant decides upon jurisdiction. When no warrant is issued, except for traffic offenses or when the youth is less than 15 years of age, the youth is taken before the juvenile court of the county in which the arrest was made. If the youth is over the age of 15, the prosecutor then decides in which court the youth will be tried. In addition, non-serious juvenile traffic offenses are excluded from the jurisdiction of juvenile courts and are routinely tried in adult courts.

The survey findings summarized below do not include data on youth tried in adult courts arising from prosecutorial referrals from juvenile court intake units. It can, however, be estimated that those referrals represent less than one-fourth of the total number of concurrent jurisdiction cases statewide. This estimate was derived from knowledge that in calendar year 1979 and 1980, there were 199 and 226 prosecutorial referrals of youth to adult courts from juvenile court intake units.

In addition, this data summary does not include information on the number of youth referred to adult courts for non-serious traffic offenses. The findings given below are only representative of concurrent jurisdiction cases which have been prosecutorially referred following arrest with a warrant.

Table 04-1 displays statewide findings by county on the number of direct prosecutorial referrals of youth to adult courts in 1978. Additionally, the table lists county populations of persons eight to 17 years of age, along with per capita rates of concurrent jurisdiction cases in order to facilitate investigations of the relationship between population and referrals to adult courts. It can be observed that in total, 762 youth were referred to adult courts in Arkansas as a result of direct prosecutorial referrals. Thirty-nine percent of the total number of such referrals were reported in Pulaski County (300). Other counties with relatively high numbers of cases included Jackson (62), Logan (61), and Cross (50). It is also important to notice that 38 out of the 74 reporting counties reported no direct prosecutorial referrals of youth to adult courts in 1978.

Consideration of the per capita rates of youth referred to adult courts through Arkansas' concurrent jurisdiction provision indicates an overall rate of 20.43. Comparatively high per capita rates exist in Stone (254.237), Loage (199.607), Jackson (165.687), and Cross (118.623) Counties.

TABLE 04-1. ARKANSAS: REFERRALS OF JUVENILES TO ADULT COURTS IN 1978 (BY COUNTY, RATE, AND LEGAL MECHANISM)[a]

County	Juvenile Population (Ages 8-17)[b]	Direct Prosecutorial Referrals	Rate[c]
Arkansas	4,349	0	0.000
Ashley	4,925	1	2.030
Baxter	2,623	15	57.186
Benton	9,356	20	21.377
Boone	3,705	4	10.796
Bradley	2,096	0	0.000
Calhoun	917	0	0.000
Carroll	2,009	0	0.000
Chicot	3,917	0	0.000
Clark	3,294	4	12.143
Clay	3,458	0	0.000
Cleburne	2,260	0	0.000
Cleveland	1,191	3	25.189
Columbia	4,391	0	0.000
Conway	3,328	0	0.000
Craighead	9,594	2	2.084
Crawford	5,622	3	5.336
Crittenden	11,290	0	0.000
Cross	4,215	50	118.673
Dallas	1,784	0	0.000
Desha	3,725	0	0.000
Drew	3,128	0	0.000
Faulkner	6,310	*	*
Franklin	2,124	0	0.000
Fulton	1,370	0	0.000
Garland	9,296	0	0.000
Grant	2,116	2	9.452
Greene	5,021	15	29.875
Hempstead	3,492	4	11.455
Hot Spring	4,157	0	0.000
Howard	2,184	0	0.000
Independence	3,813	20	52.452
Izard	1,423	0	0.000
Jackson	3,742	62	165.687
Jefferson	15,960	0	0.000

TABLE 04-1. (Continued)

County	Juvenile Population (Ages 8-17)[b]	Direct Prosecutorial Referrals	Rate[c]
Johnson	2,313	4	17.294
Lafayette	1,813	0	0.000
Lawrence	2,677	0	0.000
Lee	3,858	6	15.552
Lincoln	2,510	11	43.824
Little River	2,396	13	54.257
Logan	3,056	61	199.607
Lonoke	5,931	4	6.744
Madison	1,802	4	22.198
Marion	1,255	3	23.904
Miller	6,056	1	1.651
Mississippi	13,205	10	7.572
Monroe	3,067	0	0.000
Montgomery	1,086	0	0.000
Nevada	1,700	1	5.882
Newton	1,145	0	0.000
Ouachita	5,031	6	11.926
Perry	1,192	0	0.000
Phillips	8,483	0	0.000
Pike	1,526	4	26.212
Poinsett	5,254	0	0.000
Polk	2,510	0	0.000
Pope	5,677	0	0.000
Prairie	2,201	7	34.636
Pulaski	54,570	300	54.975
Randolph	2,830	0	0.000
St. Francis	6,655	12	18.031
Saline	7,110	0	0.000
Scott	1,648	0	0.000
Searcy	1,400	0	0.000
Sebastian	20,153	40	19.848
Sevier	2,265	3	13.245
Sharp	1,557	0	0.000
Stone	1,534	39	254.237
Union	7,642	10	13.086

TABLE 04-1. (Continued)

County	Juvenile Population (Ages 8-17)[b]	Direct Prosecutorial Referrals	Rate[c]
Van Buren	1,669	0	0.000
Washington	13,696	6	4.381
White	7,659	0	0.000
Woodruff	2,049	12	58,565
Yell	2,775	0	0.000
Total	372,961	762	20.431

* denotes Not Available

a. There are two provisions under Arkansas' concurrent jurisdiction provision--direct prosecutorial referrals and prosecutorial referrals from juvenile court intake units. These data and all which follow include only direct, prosecutorial referrals.

b. 1978 population estimates were developed by the National Center for Juvenile Justice using data from two sources: the 1970 national census and the National Cancer Institute 1975 estimated aggregate census.

c. Rate per 10,000 juveniles eight to 17 years of age (1978).

Table 04-2 reflects the relationship between the state and those counties selected for Phase II investigation. Twenty-one counties met Phase II criteria, and the combined youth population in those counties represents 47 percent of the state total. The 717 direct prosecutorial referrals reported in the 21 Phase II counties equalled 94 percent of the state total.

TABLE 04-2. ARKANSAS: RELATIONSHIP OF PHASE II COUNTIES TO ALL COUNTIES, BASED UPON 1978 POPULATION ESTIMATES AND DATA

	Juvenile Population (Ages 8-17)[a]	Number of Counties	Number of Referrals
		Direct Prosecutorial Referral	Direct Prosecutorial Referral
State	372,961	75	762
Selected for Phase II Investigation	176,740	21	717
Percentage of State Selected for Phase II Ivestigation	47%	28%	94%

a. 1978 population estimates were developed by the National Center for Juvenile Justice using data from two sources: the 1970 national census and the National Cancer Institute 1975 estimated aggregate census.

AR-10

Certain demographic characteristics (i.e., age, sex, race) of the 717 youth who were prosecutorially referred to adult courts in Phase II counties are shown in Table 04-3. Based on known information about age, the table reveals that the majority (72 percent) of these youth were 17 years of age. Five percent of the youth were 15 years old or younger (only Lincoln County reported a case younger than 15 years of age), and 22 percent were 16 years old. All reported cases were male and the majority (63 percent) were white.

TABLE 04-3. ARKANSAS: PROSECUTORIAL REFERRALS TO ADULT COURTS DUE TO CONCURRENT JURISDICTION IN PHASE II COUNTIES (BY AGE, SEX, AND RACE) IN 1978

County	Total Referrals	Age					Sex			Race		
		0-15	16	17	18+	Unknown	Male	Female	Unknown	White	Minority	Unknown
Baxter	15	0	0	15	0	0	15	0	0	15	0	0
Benton	20	1	3	16	0	0	19	*	1	20	0	0
Craighead	2	0	2	0	0	0	2	0	0	0	2	0
Cross	50	0	10	40	0	0	49	*	1	25	25	0
Greene	15	0	1	14	0	0	15	0	0	15	0	0
Independence	20	5	7	8	0	0	18	*	2	8	12	0
Jackson	62	*	*	*	*	62	*	*	62	*	*	62
Lee	6	*	*	*	*	6	6	0	0	2	4	0
Lincoln	11	1	5	5	0	0	10	*	1	7	4	0
Little Rock	13	1	1	11	0	0	13	0	0	11	*	2
Logan	61	1	10	50	0	0	61	0	0	59	2	0
Mississippi	10	0	3	7	0	0	9	*	1	5	5	0
Ouachita	6	0	3	3	0	0	6	0	0	2	4	0
Prairie	7	0	2	5	0	0	7	0	0	*	*	7
Pulaski	300	25	75	200	0	0	275	*	25	150	150	0
St. Francis	12	0	2	10	0	0	12	0	0	4	8	0
Sebastian	40	*	*	*	*	40	30	*	10	25	15	0
Stone	39	0	0	39	0	0	36	*	3	39	0	0
Union	10	0	0	10	0	0	10	0	0	5	5	0
Washington	6	1	4	1	0	0	6	0	0	6	0	0
Woodruff	12	0	5	7	0	0	12	0	0	11	1	0
Phase II Total	717	35	133	441	0	108	611	0	106	409	237	71

* denotes Not Available.

Table 04-4 displays findings concerning the offenses of youth directly referred to adult courts among Phase II counties. Burglary and breaking and entering were clearly the most common offenses, and represent 39 percent of all known offenses reported. Assault and battery represents 15 percent of all known offenses reported and is followed by robbery, with 12 percent.

TABLE 04-4. ARKANSAS: PROSECUTORIAL REFERRALS TO ADULT COURTS DUE TO CONCURRENT JURISDICTION IN PHASE II COUNTIES (BY COUNTY AND BY TYPES OF OFFENSES) IN 1978

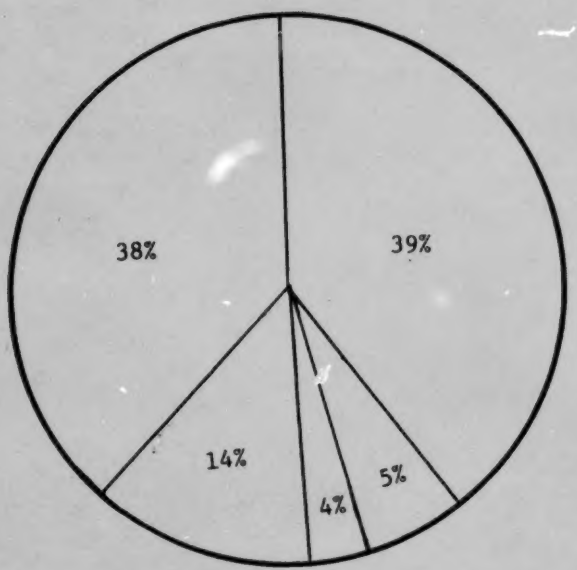
County	Total Referrals	Offenses[a]										
		Murder/ Man-slaughter	Rape	Rob-bery	As-sault/ Bat-tery	Aggra-vated As-sault	Other Per-sonal	Bur-glary	Other Prop-erty	Public Order	Other General	Unknown
Baxter	15	0	0	11	2	0	0	2	0	0	0	0
Benton	20	0	0	0	0	0	0	13	7	0	0	0
Craighead	2	0	2	0	0	0	0	0	0	0	0	0
Cross	50	1	0	1	0	0	0	48	0	0	0	0
Green	15	0	0	0	1	1	0	10	2	0	0	0
Independence	20	1	0	3	1	0	0	9	6	0	0	0
Jackson	62	*	*	*	*	*	*	*	*	*	*	62
Lee	6	0	1	0	1	0	0	3	0	1	0	0
Lincoln	11	0	0	0	0	0	0	0	0	3	8	0
Little River	13	0	0	6	0	0	0	0	7	0	0	0
Logan	61	0	2	0	10	0	0	44	5	0	0	0
Mississippi	10	0	0	0	0	0	1	9	0	0	0	0
Ouachita	6	0	0	0	0	0	0	2	4	0	0	0
Prairie	7	0	0	0	0	0	0	0	4	3	0	0
Pulaski	300	12	20	45	75	60	0	78	5	5	0	0
St. Francis	12	0	0	3	0	0	0	9	0	0	0	0
Sebastian	40	*	*	*	*	*	*	*	*	*	*	40
Stone	39	0	0	0	1	0	0	0	0	20	18	0
Union	10	0	0	0	0	0	0	10	0	0	0	0
Washington	6	2	0	0	0	2	0	1	0	1	0	0
Woodruff	12	0	0	2	1	0	0	2	0	6	1	0
Phase II Total	717	16	25	71	92	63	1	240	41	39	27	102

* denotes Not Available.

a. Only most serious offense per individual listed.

A graphic illustration of the findings on offenses is given in Figure 04-1. The figure illustrates the percentage, including unknowns, of all offenses which were personal, property, public order, and other general type offenses.

FIGURE 04-1. ARKANSAS: PERCENTAGE OF PROSECUTORIAL REFERRALS TO ADULT COURTS IN PHASE II COUNTIES (BY OFFENSE CATEGORY) IN 1978



Offenses[a]	
Personal	38%
Property	39%
Puolic Order	5%
Other General	4%
Unknown	14%

N= 717

a. Violent offenses (murder/manslaughter, rape, robbery, and aggravated assault) represents 24 percent of all offenses in Phase II counties.

The judgments received by the youth referred to adult courts in Phase II counties are reflected in Table 04-5. Judgments were reported for 615 youth, among which 85 percent were found guilty. Another six percent of the known cases were convicted under the state's youthful offender provisions. Eight percent of the youth in the Phase II counties were found not guilty or had their cases dismissed.

TABLE 04-5. ARKANSAS: PROSECUTORIAL REFERRALS TO ADULT COURTS DUE TO CONCURRENT JURISDICTION IN PHASE II COUNTIES (BY COUNTY AND BY JUDGMENTS) IN 1978

County	Total Referrals	Not Guilty	Dismissed	Referred to Juvenile Court	Youthful Offender Judgments	Guilty	Other[a]	Unknown
Baxter	15	0	0	0	15	0	0	0
Benton	20	0	0	0	0	20 est	0	0
Craighead	2	0	0	0	0	2	0	0
Cross	50	0	0	0	0	50 est	0	0
Greene	15	0	1 est	0	14 est	0	0	0
Independence	20	0	0	0	0	19	1	0
Jackson	62	*	*	*	*	*	*	62
Lee	6	0	0	0	0	6 est	0	0
Lincoln	11	0	0	0	0	11	0	0
Little River	13	0	0	0	0	13	0	0
Logan	61	0	0	0	0	61 est	0	0
Mississippi	10	0	0	0	0	10 est	0	0
Ouachita	6	0	1	0	0	5	0	0
Prairie	7	0	0	0	0	7	0	0
Pulaski	300	45 est	0	0	0	255 est	0	0
Sebastion	40	*	*	*	*	*	*	45
St. Francis	12	0	3 est	0	9 est	0	0	0
Stone	39	0	1	0	0	38	0	0
Union	10	0	0	0	0	10 est	0	0
Washington	6	0	0	0	0	6 est	0	0
Woodruff	12	0	0	0	0	12	0	0
State Phase II Total	717	45	6	0	38	525	1	102

* denotes Not Available.

a. Pending.

Table 04-6 shows the sentences for youth convicted. Of the 556 known sentences, 50 percent (277) were incarcerated, most of them in state adult corrections institutions. Twenty-nine percent (160) were placed on probation, and 21 percent (119) were fined. Three of the 11 fines in Lincoln County were suspended.

TABLE 04-6. ARKANSAS: SENTENCES REPORTED FOR CONVICTIONS ARISING FROM PROSECUTORIAL REFERRALS TO ADULT COURTS DUE TO CONCURRENT JURISDICTION IN REPORTING PHASE II COUNTIES (BY COUNTY AND SENTENCE TYPE) IN 1978

		Sentence Types						
County	Total Convictions	Fined	Probation	Jail	State Adult Corrections Facilities	State Juvenile Corrections Facilities	Other	Unknown
Baxter	15	0	0	0	15	0	0	0
Benton	20	0	20 est	0	0	0	0	0
Craighead	2	0	0	0	2	0	0	0
Cross	50	0	10 est	35 est	5 est	0	0	0
Greene	14	14	0	0	0	0	0	0
Independence	19	0	15	0	1	3	0	0
Lee	6	4 est	0	0	2 est	0	0	0
Lincoln	11	11	0	0	0	0	0	0
Little River	13	0	2	0	10	1	0	0
Logan	61	0	61 est	0	0	0	0	0
Mississippi	10	*	*	9 est	*	*	*	1
Ouachita	5	1	2	0	2	0	0	0
Prairie	7	0	0	0	7	0	0	0
Pulaski	255	40 est	40 est	0	175 est	0	0	0
St. Francis	9	0	9 est	0	0	0	0	0
Stone	38	37	1	0	0	0	0	0
Union	10	0	0	0	10 est	0	0	0
Washington	6	*	*	*	*	*	*	6
Woodruff	12	12	0	0	0	0	0	0
State Phase II Total	563	119	160	44	229	4	0	7

* denotes Not Available.

Table 04-7 reflects the sentence durations of youth sentenced to jails and state adult or juvenile corrections institutions. The most common of the known sentences was to over three and up to five years maximums (69 percent). Ninety-five percent (249) received maximum sentences of five years or less. Four youth received life sentences.

TABLE 04-7. ARKANSAS: LENGTH OF CONFINEMENT REPORTED FOR SENTENCES ARISING FROM PROSECUTORIAL REFERRALS TO ADULT COURTS DUE TO CONCURRENT JURISDICTION IN REPORTING PHASE II COUNTIES (BY COUNTY AND MAXIMUM SENTENCE) IN 1978

County	Total Confinements	Sentence Maximums: One Year or Less	One+ to 3 Years	3+ to 5 Years	5+ to 10 Years	Over 10 Years	Indeterminate	Life	Death	Unknown
Baxter	15	*	*	*	*	*	*	*	*	15
Craighead	2	0	0	0	0	2	0	0	0	0
Cross	40	35 est	0	0	5 est	0	0	0	0	0
Independence	4	3	0	0	0	0	0	1	0	0
Lee	2	0	0	2 est	0	0	0	0	0	0
Little River	11	0	4	7	0	0	0	0	0	0
Mississippi	9	9 est	0	0	0	0	0	0	0	0
Ouachita	2	0	0	0	2	0	0	0	0	0
Prairie	7	0	7	0	0	0	0	0	0	0
Pulaski	175	0	0	172 est	0	0	0	3 est	0	0
Union	10	0	10 est	0,	0	0	0	0	0	0
State Phase II Total	277	47	21	181	7	2	0	4	0	15

* denotes Not Available.

Table 04-8 provides a summary of the number of cases reported in the preceding tables concerning prosecutorial referrals to adult courts, the number selected for Phase II investigation, and findings concerning conviction and confinement practices applicable to those youth. In all, 762 youth were referred to adult courts in Arkansas during 1978. Of those, 717 cases were further investigated under Phase II data collection procedures, 563 were convicted, and 277 were sentenced to confinement.

TABLE 04-8. ARKANSAS: SUMMARY OF TABLES
(BY LEGAL MECHANISM)

	Direct Prosecutorial Referrals
Total Referrals to Adult Courts in 1978 (Table 04-1)	762
Total Referrals Selected for Phase II (Tables 04-2 and 04-3)	717
Total Referrals Resulting in Convictions (Table 04-5)	563
Total Convictions Resulting in Sentences of Confinement (Table 04-6)	277

In summary, 51 percent of Arkansas' counties reported no direct prosecutorial referrals to adult courts due to concurrent jurisdiction in 1978. Prosecutorial referral to adult courts after arrests with warrants represent about three quarters of youth referred to adult courts. There were 762 such reported referrals in 1978. Thirty-nine percent of the 762 reported referrals came from Pulaski County, the county with the largest juvenile population. However, the highest rates of referral occurred in much smaller counties. Among the Phase II counties, 72 percent of youth for whom ages were reported were 17 years old, all were male, and 63 percent of the cases for which race were known were white. Forty-seven percent of the Phase II referrals were for property offenses, while 44 percent were for crimes against persons. Among the 615 youth for whom judgments were reported, 85 percent were found guilty. Fifty percent of the reported sentences were for terms of incarceration, including four youth who received life sentences. The majority (95 percent) of the confinement sentences reported were for five years or less.

Data on youth tried in adult courts due to traffic offenses were not available in Arkansas.

FOOTNOTES

1. "Juvenile Detention," State of Arkansas, Office of the Governor, Commission on Crime and Law Enforcement, prepared for the Dallas Regional Office, Law Enforcement Assistance Administration, December 1976, p. 11.
2. Arkansas Statutes Annotated, Section 45-403(1).
3. Arkansas Statutes Annotated, Section 45-418.
4. Arkansas Statutes Annotated, Section 45-417.
5. Arkansas Statutes Annotated, Section 45-418.
6. Arkansas Statutes Annotated, Section 45-241.
7. Arkansas Statutes Annotated, Section 45-224.
8. Monts. v. State, 349 S.W.2d 350 (1961).
9. Cantrell v. Goldberger, 510 S.W.2d 546 (1974); Arkansas Statutes Annotated, Section 45-240.
10. Arkansas Statutes Annotated, Section 45-240; Pritchard v. Downie, 216 I. Supp. 621 (E.D. Ark., 1963) off'd; 326 F.2d.
11. Allen v. State, 488 S.W.2d 712; 253 Ark. 732 (1973).
12. Arkansas Statutes Annotated, Section 45-420; Little v. State, 554 S.W.2d 312 (1977).
13. Arkansas Statutes Annotated, Section 45-241; Stanley v. State, 454 S.W.2d 72; 248 Ark. 787 (1973).
14. Arkansas Statutes Annotated, Section 46-910; Acts 1969, no. 377, Section 3.
15. Act 378 of 1975.

COLORADO PROFILE

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METHODOLOGY

The data survey in Colorado was conducted by the Ohio Management and Research Group. Professional interviewers systematically contacted prosecutors and juvenile courts to collect data on juveniles judicially waived to adult courts and on juveniles who, because of the seriousness of the offense and the decision of the prosecutor (concurrent jurisdiction), had their cases begin in adult courts. Phase I data on the frequency of juveniles referred to adult court (through judicial waiver and prosecutorial discretion in filing directly in adult courts) during 1978 were collected from every county. Phase II data on age, sex, race, offenses, and sentences of youth judicially transferred or referred directly to criminal courts through concurrent jurisdiction were sought from the most populous ten percent of the counties and from counties that referred five or more cases to criminal courts during 1978 by either procedure.

An attempt was also made to obtain data on juveniles routinely referred to adult courts for traffic offenses. Interviewers were usually able to locate local sources for this information.

Colorado was chosen as the case study state representing federal administrative region eight. A medium-size state ranking 28th in population, Colorado has a low population density. Colorado utilizes both judicial waiver and concurrent jurisdiction mechanisms to try juveniles charged with serious offenses as adults, as well as excluded offenses for juveniles charged with minor traffic violations. It is especially notable that the judicial waiver and concurrent jurisdiction mechanisms overlap on juveniles 14 years of age or older and charged with serious felonies (See Transfer Process). A final point of interest is that the Denver Juvenile Court was one of the first juvenile courts established in the United States.

In January 1980, four members of the Academy staff interviewed 33 people in three locations. The locations chosen followed the standard MIJJIT format of the state capital and, in this case, the county with the largest city (Denver); a representative smaller county (Douglas); and another county of significant juvenile population (El Paso). In addition, two interviews were conducted in Anapahoe County due to its accessibility to Denver and the recommendation that the interviews would be very valuable. The respondents were chosen from those actively involved in or having a special interest in the process whereby juveniles are tried and sentenced as adults. These respondents included juvenile and district court judges, district attorneys, public defenders, probation officers, representatives of relevant state agencies, and justice system researchers and specialists.

In addition to the interviews, this report is based on other documentary data (agency reports and plans, advocacy group findings, etc.) which the staff collected on the Colorado justice system. This case study profile report also contains the census and additional data collected on youth tried as adults in Colorado in 1978.

HISTORY OF STATUTES RELATING TO JURISDICTION AND TRANSFER

Currently, in Colorado, juveniles 14 years of age or older can be referred to adult courts for trial through several legal mechanisms, including judicial waiver, concurrent jurisdiction and excluded offenses. Youth charged with a felony can be referred to adult courts following a transfer hearing in juvenile courts. Prosecutors can file charges in either district or juvenile courts on certain youth who commit specific felonies. In addition, juveniles in violation of routine traffic or municipal ordinances are automatically tried in adult courts (excluded offenses).

Colorado's original 1903 juvenile legislation was applicable to all children, regardless of offense, 16 years of age or younger, except those juveniles already housed in institutions.[1] The 1903 definition of delinquency was a lengthy one and contained a multitude of status offenses. The first juvenile court in Colorado was established that same year when the Denver Juvenile Court was founded as a result of that legislation. This was one of the earliest juvenile courts in the country. For the next 60 years, the Denver court was the only court in Colorado dealing with juvenile cases exclusively; in other areas of the state, county courts ruled on juvenile matters.

In 1923, legislation was enacted that raised the level of original juvenile court jurisdiction to 18 years of age, a level at which it continues today.[2] As before, this legislation did not apply to residents of state institutions. The Colorado statutes continued to exclude juveniles who were inmates of state institutions from the protection of delinquency status until enactment of the Colorado children's code in 1967.[3]

Furthermore, Colorado continuously provided for direct adult sentencing of juveniles from 1923 until 1967. The 1923 act provided that for delinquents over 16 years of age whose delinquency was chronic or repeated or constituted a felony, the courts had discretion to commit the juveniles under the same terms and conditions as if they had been prosecuted and convicted in criminal courts.[4] A second portion of the 1923 act excluded crimes of violence punishable by death or imprisonment for life where the accused was 16 years of age or older. The excluded offense provision remained in effect until the concurrent jurisdiction provision replaced it in 1973, as described below.

The 1953 law mandated separate juvenile courts for cities and counties with populations of 100,000 or more.[5] The juvenile courts in these cities and counties shared concurrent jurisdiction with the district and county courts in criminal cases involving persons under the age of 21.[6] However, these juvenile courts had exclusive jurisdiction in non-criminal proceedings. For cities and counties with populations of less than 100,000, county courts continued to have exclusive jurisdiction over all juvenile offenses.

Legislation in 1959 deleted from the "definitions" portion of the act the provision that allowed for direct adult sentencing by juvenile courts for chronic delinquents or delinquents who had committed felonies.[7] However, a 1963 law retained the provision that excluded from the definition of delinquent those youth 16 years of age or older who committed crimes of violence punishable by death or life imprisonment.[8]

In 1960, legislation was passed which excluded from the definition of delinquency those youth who violated state traffic or fish and game laws. These violations have continuously been excluded from juvenile court jurisdiction until and including the present statutory provisions.

In 1967, a comprehensive new children's code was enacted which changed a number of aspects of juvenile procedures. First, it granted exclusive original jurisdiction of juvenile matters to the juvenile sessions of district courts in proceedings concerning any delinquent juvenile.[9] The county courts no longer played any part in original juvenile jurisdiction after this date, except for minor traffic violations.

Second, it assured juveniles of certain rights--due process, proper notice, confrontation of witnesses--and other protections anticipating those established by the decision of the U.S. Supreme Court in the Gault decision, handed down later that year.

Finally, although the Colorado statutes did provide for direct adult sentencing of juveniles from 1923 to 1959, there was no judicial waiver provision in Colorado until 1967. One section of the 1967 statutes provided that the juvenile courts might enter an order certifying juveniles for trial in adult courts where the individual had committed an act at the age of 16 years or older which would be a felony if committed by an adult.[10] The courts were responsible for finding, after investigation, that it would be contrary to the best interests of the juvenile or the public for jurisdiction to be retained in juvenile court. The statute provided that waiver hearings were to be governed by the state's rules of civil procedure and allowed, though did not require, the courts to take into consideration written reports relating to the juvenile's mental, physical, and social history.[11] The statutes did not, however, stipulate guidelines for the courts to consider in the waiver hearing.

In 1970, all district courts came under the jurisdiction of the state, which unified the judicial system under the judicial department. Juvenile probation also became a state-funded function, its personnel coming under the judicial department's merit system.

Subsequent to the enactment of the Colorado children's code in 1967, and prior to the 1973 amendments, the exclusion of crimes of violence punis'able by death or life imprisonment where the accused was 16 years of age or older was repealed. The 1973 legislation provided for concurrent jurisdiction between district courts and juvenile courts over youth at least 14 years of age charged with Class 1 felonies; youth 16 years of age or older charged with lesser felonies and previously adjudicated delinquent for a felony within the past two years; or youth 14 years of age or older charged with a lesser felony while facing a pending felony charge in criminal court.[12] This legislation also reduced the age at which youth could be judicially waived from 16 to 14 years of age. The 1973 statutes remain basically unchanged to the present time.

A final note of interest is that juveniles in Colorado who are prosecuted in juvenile courts have the right to a jury trial. It is a special six-person jury, making Colorado one of the approximately 13 states authorizing jury trials for juveniles.

Case Law Summary

Since 1950, the Colorado Supreme Court has ruled several times on issues related to the transfer of juveniles to adult courts. In People v. District Court of Adams County, the issue before the supreme court was whether the prior jurisdictional statute gave a criminal session of district court the authority to dismiss a murder charge against a juvenile which had been referred to it from a lower court and, instead, to direct that delinquency charges be filed in juvenile session of district court.[13] The

Colorado Supreme Court, noting that the statute merely allowed a county judge or magistrate to transfer charges to the district courts for handling and held that the district court procedure was improper.

In I.R. v. People, the court, while stating that under the relevant statutes a traffic offense committed by a juvenile was not an act of delinquency and, hence, not within the jurisdiction of juvenile courts, held vehicular homicide to be an act of delinquency (rather than a traffic offense) over which juvenile courts did have jurisdiction.[14]

In Jaramillo v. District Court, a statute (since repealed) providing for mandatory criminal prosecution without a waiver hearing in cases involving juveniles accused of felonies punishable by death or life imprisonment, was construed to be inapplicable to offenses carrying lesser sentences.[15] The court also held that the juvenile courts had exclusive jurisdiction over such cases which extended beyond the maximum original jurisdictional age of 18 years, so long as the juveniles were younger than 18 years of age at the time of the offense.

In Maddox v. People, it was held to be erroneous for a district court to fail to remand the case to juvenile court for a transfer hearing when there is unrebutted testimony that the defendant was below the age of 18 at the time of the offense.[16]

It was held, in People in Interest of G.A.T., that juvenile courts' waiver of jurisdiction will not be set aside unless the findings of fact upon which it is based are clearly erroneous when viewed in light of the factors set forth in Colorado Rules of Juvenile Procedure.[17]

In Myers v. District Court, the statute which granted discretion to district attorneys to file criminal charges against juveniles previously adjudicated as delinquents and committing subsequent felonious acts was held not to deny due process or equal protection rights to affected juveniles.[18] The current jurisdictional statute grants similar discretion to the district attorneys where the juveniles are accused of committing a Class 1 felony and are 14 years of age or older. Where a case falls under this statute, it is erroneous for juvenile courts to refuse to transfer the case to adult courts upon the district attorneys' motion to transfer. Juvenile courts are given no discretion once the district attorneys have indicated their intent and may not thereafter hold a transfer hearing to determine whether the juvenile shall be transferred to adult court.[19]

In D.H. v. People, the court held that a transfer order, being interlocutory in nature, is not a final judgment from which an appeal may be taken.[20] However, such an order may be reviewed by an original proceeding in the supreme court, where deemed appropriate.

In People v. Mosely, Jr., the 1973 statute was held not to be unconstitutionally vague on the grounds that it fails to give notice of prohibited conduct.[21] The statute prescribes procedures for transfer to district courts of juveniles whose conduct runs afoul of the general criminal law. Hence, the fair notice standard does not apply to juvenile courts' transfer provisions.

In Stroh v. Johnson, it was held that a district court judge who had both criminal and juvenile court jurisdiction and who had, when acting as a juvenile court judge, granted permission at the transfer hearing to charge a youth as an adult, acted properly in accepting criminal information against the minor for the filing in the criminal court, even though the motion for change of venue had been granted at the hearing, with the result that the criminal case was reassigned to a different judge.[22]

Juvenile Court Dispositional Options

Colorado has developed over its history a broad range of dispositions for the juvenile courts, some of which no longer exist. After making an order of adjudication, the juvenile courts hear evidence on the question of the disposition best serving the interests of the juvenile and the public. In adjudicatory hearings for delinquents where the juveniles have denied the allegation, the social study and other reports are not made until after the adjudicatory hearing. If the juveniles have been adjudicated delinquent, the courts have several dispositional options available.

- The courts may recommend to the department of institutions that delinquents be placed in a training school (Lookout Mountain school for boys, the Mount View girls' school) when the delinquent is 16 years of age or older and it is the opinion of the courts that it would be in the best interest of the juveniles and the public that they be placed in such a facility.

- The courts may commit persons over the age of 18 years to the department of institutions if they are adjudicated delinquent for acts committed prior to their 18th birthdays or upon revocation of probation.

- The courts may also sentence persons who are 18 years of age or over (on the date of a dispositional hearing) to the county jails for a period not to exceed an aggregate total of 180 days, which may be served consecutively or in intervals, if they are adjudicated delinquent for acts committed prior to their 18th birthdays.

- The courts may impose a fine of not more than three hundred dollars.

- The courts may place juveniles on probation or under protective supervision in the legal custody of one or both parents or guardian(s) under such conditions as the courts may impose.

- The courts may place juveniles in the legal custody of a relative or other suitable person under such conditions as the courts may impose, which may include placing the child on probation or under protective supervision.

- The courts may require as a condition of probation that the juveniles report for assignment to a supervised work program or place juveniles in a child care facility, or it may place the juveniles in a child care center.[23]

The above options are currently available to the juvenile courts.

During 1978, delinquents judged to be violent or repeat offenders could be committed to the Department of Institutions for minimum sentences. Sentencing placement guidelines provided for the following:

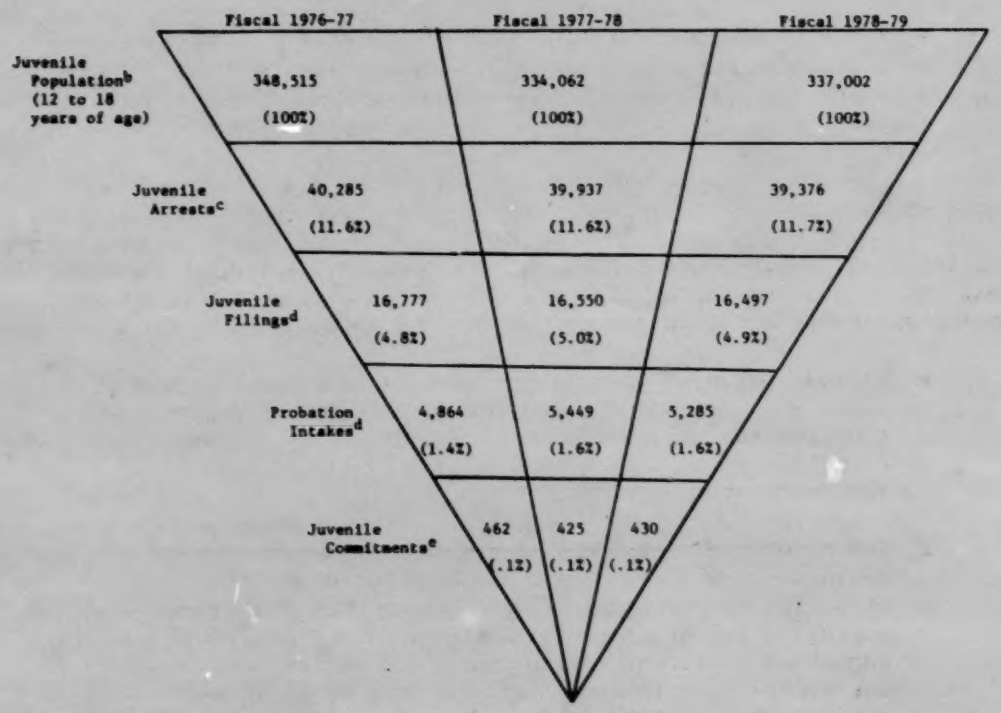
- Violent juvenile offenders--juveniles 15 years of age or older who were adjudicated for, or had their probation revoked for, a "crime of violence" had to be committed to an institution or placed out of home for at least one year.

- Repeat offenders--juveniles previously adjudicated delinquents who are subsequently adjudicated or whose probation is revoked for an offense which would constitute a felony if committed by an adult could be committed as repeat offenders. If committed as such, the courts must impose a minimum term to be served prior to eligibility for parole.

- Mandatory repeat juvenile offenders--juveniles adjudicated delinquent for the third time or who have had their probation revoked a third time had to be committed or placed out of the home for at least one year.[24]

A description of the categories of youth coming into contact with juvenile courts and the resolutions that were reached as they moved through the juvenile justice system are presented in Figure 06-1. Note that the number of juvenile arrests have been decreasing since fiscal 1976-77. However, judicial waivers have increased from 24 judicial waivers in fiscal 1975-76 to 41 waivers and 25 concurrent jurisdiction cases in 1978 (see Table 06-1). Thus, while the number of juvenile arrests has been declining slowly, the number of youth tried as adults has been rising.

FIGURE 06-1. COLORADO: PERCENT OF JUVENILE ARRESTS, COURT FILINGS AND DISPOSITIONS OF JUVENILE POPULATION (BY FISCAL YEAR)[a]



a. Data for table provided by the Denver Juvenile Court.

b. Colorado State Division of Planning, Preliminary Colorado Population Estimates by Race, Sex, and Age (Denver, Colo.: 1979).

c. Colorado Bureau of Investigation, Uniform Crime Report (Denver, Colo.: 1976, 1977, and 1978 calendar years).

d. Colorado State Judicial Department, The Annual Statistical Report of the Colorado Judiciary (Denver, Colo.: fiscal 1976-77, 1977-78, and 1978-79). Statistics refer to number of youth placed on probation.

e. Division of Youth Services.

PROCEDURES FOR TRYING YOUTH AS ADULTS IN 1978

Court Organization

The Colorado unified state court structure includes a supreme court, court of appeals, 22 district courts, and 89 municipal courts. The highest courts of general jurisdiction in Colorado are the district courts. In 21 of the 22 districts, covering 62 of the state's 63 counties, district courts have original jurisdiction in all civil, probate, felony, and juvenile cases. The remaining district, i.e., the city and county of Denver, has a separate court for probate and mental health cases, and a separate juvenile court. These 21 district courts (when acting as juvenile courts) and the Denver Juvenile Court are hereafter referred to as juvenile courts. Within the city and county of Denver, there is also a superior court that hears all appeals from county and municipal courts in the county.

In all districts, except Denver, youth transferred to adult courts will be transferred from the juvenile division of district court to the adult division of district court. In Denver, the youth is transferred from the separate juvenile court to the criminal division of district court. Likewise, if the prosecutor files in criminal court under the concurrent jurisdiction provision, it will be filed in district court.

There are 63 county courts in Colorado that have concurrent jurisdiction with district courts over misdemeanors and preliminary hearings in felony cases. County courts also handle traffic cases involving both juveniles and adults.

The 89 municipal courts handle municipal ordinance violations and traffic offenses, including juvenile traffic cases.

An overview of Colorado's courts by their jurisdiction over juveniles appears below.

COLORADO: COURT JURISDICTION OVER JUVENILES IN 1978

General Juvenile Jurisdiction	Jurisdiction over Transferred Juveniles	Juvenile Traffic[a]
District Courts (62 counties) Denver Juvenile Court	District Courts	County Courts Municipal Courts

a. Youth aged 16 or older.

The Transfer Process

The initial age of juvenile court jurisdiction in Colorado extends to 18 years of age.[25] Individuals under the age of 18 can be referred to adult courts through three legal mechanisms--judicial waiver, concurrent jurisdiction, and excluded offenses.

Judicial Waiver

Juveniles 14 years of age or older who are accused of having committed an act which would be a felony if committed by an adult can be referred to adult courts following a transfer hearing in juvenile court.[26] The juvenile courts must conclude in the transfer hearing that there is probable cause to believe that the juveniles committed the act and that the best interests of the juveniles or community would be better served by transferring jurisdiction.[27]

More specifically, the juvenile courts' decision regarding the transfer of youth to adult court is based on the following factors:

- The seriousness of the offense and whether the protection of the community requires isolation of the juvenile beyond that afforded by juvenile facilities.
- Whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner.
- Whether the alleged offense was against persons or property, greater weight being given to offenses against persons.
- The maturity of the juvenile, as determined by considerations of the home, environment, emotional attitude, and pattern of living.
- The record and previous history of the juvenile.
- The likelihood of rehabilitation of the juvenile by use of facilities available to the juvenile courts.

The amount of weight to be given to each of the factors listed above:

> Is discretionary with the courts; except that a record of two or more previously sustained petitions for acts which would constitute felonies if committed by an

adult shall establish prima facie evidence that to retain jurisdiction in juvenile court would be contrary to the best interests of the child or of the community.[28]

When a juvenile court finds that its jurisdiction over a youth should be waived, it must enter an order to that effect. Such an order of waiver will be declared null and void if the district attorney does not file in the criminal division of a district court within five days of the written order of waiver, not counting Saturdays, Sundays, and court holidays. It is left to the discretion of the juvenile court whether or not the youth will be held in juvenile detention pending the filing by the prosecuting attorney in the criminal division of district court.[29]

Concurrent Jurisdiction

The juvenile courts and district courts have concurrent jurisdiction over certain proceedings. Youth 14 years of age or older and charged with serious felonies (Class 1)--or who are 16 years of age or older and charged with lesser or nonclassified felonies, but have previous records of felony adjudication within the last two years--can be considered originally by adult courts.[30] Also, individuals 14 years of age or older charged with lesser or nonclassified felonies while already facing felony charges which are pending in adult courts can be considered originally by adult courts. The decision to file the case in adult court is made by the district attorney. In these cases, the juvenile courts cannot refuse to transfer the case. If the district attorneys indicate an intent to proceed with the case in adult courts, no transfer hearing is held.

Whenever criminal charges are either transferred to or filed directly in the district courts, the judges of the criminal courts have the power to sentence under the criminal code or to make any disposition of the case available to juvenile courts. They also have the power to transfer the case to the juvenile courts for disposition, at their discretion.[31] In 1981, the sentencing options available to district court judges were legislatively reduced. District court judges can no longer sentence youth 16 years of age or older, convicted of first degree felonies or crimes of violence under the juvenile code. They must now be sentenced according to criminal statute. Other youth transferred to district courts and tried as adults can receive a sentence under the criminal code or any disposition available to juvenile courts.

The legislation which provided for the concurrent jurisdiction clearly stated that, for certain specified offenses, prosecuting attorneys may file cases in adult courts.[32] However, in practice, the law has been interpreted by district attorneys in two counties to read as "shall" be filed in adult courts, even though the 1974 supreme court decision in Myers v. District Court noted that filing by district attorneys in criminal courts is at their discretion.[33]

Excluded Offenses

Minor traffic violations and fish and game violations involving juveniles 16 years of age or older are tried exclusively in adult courts.[34]

Role of the Prosecutor

With the passage of the 1973 legislation providing for concurrent jurisdiction for certain specified crimes, prosecutors acquired a significant amount of discretion. Individuals charged with these offenses had, since 1967, been eligible for judicial waiver. However, this legislation gave prosecutors the power to determine whether these juveniles would be tried in juvenile courts or adult courts.

Police departments originate more than 98 percent of the state's juvenile delinquency filings. Other filings are originated when the victim of an offense files a petition through a district attorney's office.

Prosecutorial screening determines whether or not juvenile cases are taken to court. Until 1973, the probation departments of most judicial districts--with the exception of Arapahoe County in the 18th District--screened petitions for possible filing. At present, district attorneys review all felony and misdemeanor cases for probable cause; then, a social summary may be requested. With the evidence in the case, this enables district attorneys to decide whether or not a court hearing and the filing of a petition are in the best interests of the juvenile.

If prosecuting attorneys determine that further juvenile action should be taken, they may file a petition of delinquency with the juvenile courts which must be accepted by the courts. If district attorneys are unable to determine whether the interests of the juvenile or the community require further action, they may refer the matter to a probation department, social services agency, or other agency designated by the courts for preliminary investigation and recommendations as to filing a petition or initiating an informal adjustment. For certain juveniles who have had no sustained petition for delinquency in the preceding 12 months, informal adjustment may be utilized, with the approval of the prosecutors. In such cases, the probation departments or a designated agency may periodically counsel the juvenile and the parents.

If the concurrent jurisdiction provisions apply to a case and the district attorney decides to prosecute it in adult court, the juvenile court loses jurisdiction and the case is handled under the rules of criminal procedure (see "Transfer Process"). The concurrent jurisdiction provision was infrequently used in 1978. Indeed, very few juveniles were tried in adult courts in 1978, and two-thirds of these were judicially transferred from the juvenile to the adult courts.

Defender Services

Juveniles brought before juvenile courts in Colorado, at their first appearance, are advised of their constitutional and legal rights, including their right to a jury trial and the right to be represented by counsel at every stage of the proceedings.[35] If the juveniles or their parents or legal guardians request an attorney and they are found to be without sufficient financial means, counsel must be appointed by the courts. There is a statewide, state-funded public defender system. The courts may also appoint counsel without such a request, if it deems representation by counsel necessary to protecting the interests of the juveniles or of other parties.

Confinement Practices

Detention Practices

Juveniles may be taken into custody by law enforcement officers, if there are reasonable grounds to believe they have committed a delinquent act. When juveniles are taken into temporary custody, the officers must notify parents, guardians, or legal custodian without unnecessary delay. The juveniles must then be released to the care of their parents or other adults unless their immediate welfare or the protection of the community requires that they be detained. Juveniles placed in detention have a right to a hearing within 48 hours, excluding Saturdays, Sundays, and holidays, to determine whether or not they should be detained further. At the earliest opportunity, the officers or other persons who take juveniles to detention or shelter facilities must notify the courts (or any agency or persons designated by the court) that the juveniles have been taken into custody and where they have been taken. No juveniles taken to detention as a result of an act which would constitute a felony if committed by an adult can be released from such facility prior to a detention hearing, if the law enforcement agency requests that a hearing be held. Reasonable advance notice of the hearing must be given to the district attorneys, alleging the circumstances concerning the detention of the juveniles. Following the detention hearing, the courts may order further detention of the juveniles, at which time a petition alleging the juveniles to be delinquent must be filed with the courts. The courts may also order the juveniles released.[36]

There are two distinct detention programs in Colorado--one for juveniles and the other for adults. If juvenile jurisdiction over any individuals under 18 years of age is waived, then those persons would be considered adults. When persons in this category are detained, that detention would take place in an adult facility--a jail--unless the criminal court judges expressly order the individuals' continuing detention in a juvenile detention facility. However, no youth under 16 years of age may be detained in

a jail or other facility used for the confinement of adult offenders. An exception is made, upon order of the court, for youth 14 to 16 years of age when there is no other suitable place of confinement available. Youth held in adult facilities must be detained separately from adult offenders.[37]

Dispositional Alternatives

The Department of Corrections operates adult corrections facilities in Colorado. The Department of Institutions, Division of Youth Services, has responsibility for juvenile corrections.

For youth convicted as adults, dispositional alternatives are basically the same as those available for adult offenders tried on criminal charges. These may include:

- Dismissal.
- After a finding of guilty, the defendant may be placed on probation.
- The youth may be placed in one of the facilities operated by the Colorado Department of Corrections.
- The courts may order examination and treatment in special hospitals or other suitable facilities.
- The courts may utilize any disposition available to the juvenile justice system for placement or refer the youth back to juvenile court for disposition.

Youth committed to the Department of Corrections are subject either to indeterminate or determinate sentences. In fiscal 1978-79, 59 percent of all new court admissions to the Department of Corrections received indeterminate sentences.[38] In addition, according to data available to the Academy in 1978, the option of commitment to a juvenile facility was not used.

The Colorado Court of Appeals has recently rules that minors convicted by county courts of traffic offenses may be sentenced to jail with adults.[39]

Finally, it is important to note that Colorado law does not specifically permit administrative transfers of offenders between adult and juvenile corrections facilities.

STATE DATA SUMMARY

In Colorado, juveniles 14 years of age or older can be referred to adult courts for trial through several legal mechanisms, including judicial waiver and concurrent jurisdiction. Youth charged with a felony can be referred to adult courts following a transfer hearing in juvenile courts, and prosecutors can file charges in either district or juvenile courts on certain youth who commit specific felonies. In addition, youth in violation of routine traffic or municipal ordinances are automatically tried in adult courts (excluded offenses). Survey findings concerning juvenile traffic cases are given in Table 06-14.

A review of Table 06-1 shows that there were a total of 41 youth referred to adult courts through judicial waivers, and 26 reported cases of youth directly filed upon in adult courts through concurrent jurisdiction procedures during 1978. It is also evident that 48 of the state's 63 counties reported no judicial waivers, and only three counties reported concurrent jurisdiction cases. The county with the highest per capita rate of judicial waivers was Lake County, with 11.5 per 10,000 juveniles eight to 17 years of age. However, a consideration of just the absolute number of youth judicially waived indicates that Adams, Denver, and Jefferson Counties represented 41 percent (17) of the judicial waiver cases. In addition, Table 06-1 reveals that Denver County accounted for 85 percent (22) of the total reported number of concurrent jurisdiction cases in 1978.

Viewed comparatively with other states, both the frequency and the rate for both mechanisms are low. It appears that virtually all cases against juveniles are initially referred to juvenile courts. It also appears that, once referred to juvenile courts, these cases remain there for adjudication and disposition.

TABLE 06-1. COLORADO: REFERRALS OF JUVENILES TO ADULT COURTS IN 1978 (BY COUNTY, RATE, AND LEGAL MECHANISM)

County	Juvenile Population (Ages 8-17)[a]	Judicial Waiver		Concurrent Jurisdiction	
		Cases	Rate[b]	Cases	Rate[b]
Adams	46,420	5 est	1.077	0	0.000
Alamosa	2,058	0	0.000	0	0.000
Arapahoe	42,817	2	0.467	0	0.000
Archuleta	700	0	0.000	0	0.000
Baca	990	0	0.000	0	0.000
Bent	1,048	0	0.000	0	0.000
Boulder	28,898	0	0.000	0	0.000
Chaffee	2,224	0	0.000	0	0.000
Cheyenne	421	0	0.000	0	0.000
Clear Creek	958	0	0.000	0	0.000
Conejos	2,010	0	0.000	0	0.000
Costilla	659	0	0.000	0	0.000
Crowley	547	0	0.000	0	0.000
Custer	159	0	0.000	0	0.000
Delta	2,981	0	0.000	0	0.000
Denver	70,848	7	0.988	22 est	3.105
Dolores	310	0	0.000	0	0.000
Douglas	3,458	1	2.892	0	0.000
Eagle	1,975	0	0.000	0	0.000
Elbert	1,179	0	0.000	0	0.000
El Paso	52,169	2	0.383	3	0.575
Fremont	4,187	0	0.000	0	0.000
Garfield	2,869	0	0.000	0	0.000
Gilpin	342	0	0.000	0	0.000
Grand	1,109	0	0.000	0	0.000
Gunnison	1,199	0	0.000	0	0.000
Hinsdale	28	0	0.000	0	0.000
Huerfano	1,090	0	0.000	0	0.000
Jackson	302	0	0.000	0	0.000
Jefferson	62,817	5	0.796	1	0.159
Kiowa	419	0	0.000	0	0.000
Kit Carson	1,496	1	6.684	0	0.000
Lake	1,736	2	11.521	0	0.000
La Plata	4,287	2	4.665	0	0.000
Larimer	19,310	2	1.036	0	0.000

TABLE 06-1. (Continued)

County	Juvenile Population (Ages 8-17)[a]	Judicial Waiver Cases	Judicial Waiver Rate[b]	Concurrent Jurisdiction Cases	Concurrent Jurisdiction Rate[b]
Las Animas	2,680	2 est	7.463	0	0.000
Lincoln	874	0	0.000	0	0.000
Logan	3,387	0	0.000	0	0.000
Mesa	10,555	2 est	1.895	0	0.000
Mineral	205	0	0.000	0	0.000
Moffat	1,944	0	0.000	0	0.000
Montezuma	3,058	0	0.000	0	0.000
Montrose	4,210	3	7.126	0	0.000
Morgan	4,450	0	0.000	0	0.000
Otero	4,808	0	0.000	0	0.000
Ouray	316	0	0.000	0	0.000
Park	845	0	0.000	0	0.000
Phillips	764	0	0.000	0	0.000
Pitkin	1,319	0	0.000	0	0.000
Prowers	2,645	0	0.000	0	0.000
Pueblo	22,242	3	1.349	0	0.000
Rio Blanco	963	0	0.000	0	0.000
Rio Grande	2,154	0	0.000	0	0.000
Routt	1,868	0	0.000	0	0.000
Saguache	768	0	0.000	0	0.000
San Juan	138	0	0.000	0	0.000
San Miguel	468	0	0.000	0	0.000
Sedgwick	554	0	0.000	0	0.000
Summit	1,045	0	0.000	0	0.000
Teller	1,102	0	0.000	0	0.000
Washington	887	0	0.000	0	0.000
Weld	19,203	2 est	1.042	0	0.000
Yuma	1,473	0	0.000	0	0.000
Total	458,927	41	0.893	26	0.567

a. 1978 population estimates were developed by the National Center for Juvenile Justice using data from two sources: the 1970 national census and the National Cancer Institute 1975 estimated aggregate census.

b. Rate per 10,000 juveniles eight to 17 years old (1978).

Table 06-2 reflects the relationship between the state and Phase II counties, the latter being those counties in which more extensive information was obtained. In Colorado, the six Phase II counties represent 66 percent of the total juvenile population, 51 percent of the judicial waivers, and 100 percent of the concurrent jurisdiction cases. Boulder is the only Phase II county that referred no youth to adult courts in 1978.

TABLE 06-2. COLORADO: RELATIONSHIP OF PHASE II COUNTIES TO ALL COUNTIES, BASED UPON 1978 POPULATION ESTIMATES AND DATA

	Juvenile Population (Ages 8-17)[a]	Number of Counties		Number of Referrals	
		Judicial Waiver	Concurrent Jurisdiction	Judicial Waiver	Concurrent Jurisdiction
State	458,927	63	63	41	26
Selected for Phase II Investigation	303,969	6	6	21	26
Percentage of State Selected for Phase II Investigation	66%	10%	10%	51%	100%

a. 1978 population estimates were developed by the National Center for Juvenile Justice using data from two sources: the 1970 national census and the National Cancer Institute 1975 estimated aggregate census.

Judicial Waiver

This section contains a series of tables and a brief discussion pertaining to the Phase II information on Colorado youth judicially waived during 1978. Because officials in El Paso County were unable to distinguish between two judicially waived youth and three concurrent jurisdiction cases, data displayed in the following judicial waiver tables relating to El Paso County are descriptive of all five youth.

Demographic characteristics--age, sex, race--are displayed in Table 06-3. Of those cases with specific information, 75 percent (15) of those reported upon were 17 years of age or older, and 25 percent (five) were under 17 years of age. Eighty-seven percent (20) were males, and 13 percent (three) were females. Nine of 20 (45 percent) were white, and 11 (55 percent) were minority youth.

TABLE 06-3. COLORADO: JUDICIAL WAIVERS TO ADULT COURTS IN PHASE II COUNTIES (BY COUNTY AND BY AGE, SEX, AND RACE) IN 1978

County	Total Waivers	Age					Sex			Race		
		0-15	16	17	18+	Unknown	Male	Female	Unknown	White	Minority	Unknown
Adams	5	0	1	4	0	0	5	0	0	3	2	0
Arapahoe	2	0	0	2	0	0	2	0	0	2	0	0
Boulder	0	0	0	0	0	0	0	0	0	0	0	0
Denver	7	0	1	5	1	0	7	0	0	0	7	0
El Paso	5[a]	2	1	1	*	1	4	*	1	2	2	1
Jefferson	5	*	*	2	*	3	2	3	0	2	*	3
State Phase II Total	24[a]	2	3	14	1	4	20	3	1	9	11	4

* denotes Not Available.

a. Includes both the two judicial waiver and three concurrent jurisdiction cases for El Paso County.

Offense data on youth judicially waived in Phase II counties are shown in Table 06-4. Personal offenses accounted for nine of the 20 known (45 percent) charges. Burglary and other property offenses were the most serious offenses charged in 55 percent (11) of the cases. These findings are also reported through a graphic representation in Figure 06-2.

TABLE 06-4. COLORADO: JUDICIAL WAIVERS TO ADULT COURTS IN PHASE II COUNTIES (BY COUNTY AND BY TYPE OF OFFENSE) IN 1978

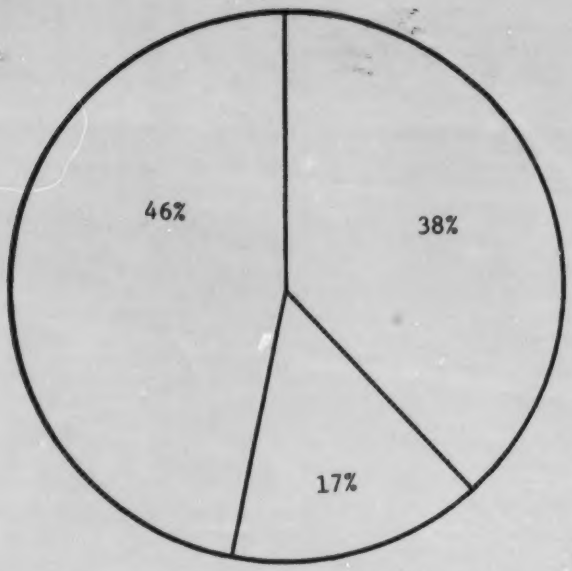
County	Total Waivers	Offenses[a]										
		Murder/ Manslaughter	Rape	Robbery	Assault/ Battery	Aggravated Assault	Other Personal	Burglary	Other Property	Public Order	Other General	Unknown
Adams	5	2	1	0	0	2	0	0	0	0	0	0
Arapahoe	2	0	0	0	1	0	0	1	0	0	0	0
Denver	7	0	0	1	0	0	0	4	2	0	0	0
El Paso	5[b]	2	*	*	*	*	*	2	*	*	*	1
Jefferson	5	*	*	*	*	*	*	2	*	*	*	3
State Phase II Total	24[b]	4	1	1	1	2	0	9	2	0	0	4

* denotes Not Available.

a. Only most serious offense per individual is listed.

b. Includes both the two judicial waiver and three concurrent jurisdiction cases in El Paso County.

FIGURE 06-2. COLORADO: PERCENTAGE OF JUDICIAL WAIVERS TO ADULT COURTS IN PHASE II COUNTIES (BY OFFENSE CATEGORY) IN 1978[a]



Offenses[b]	
Personal	38%
Property	46%
Public Order	0%
Other General	0%
Unknown	17%

N= 24

a. Includes both the two judicial waiver and three concurrent jurisdiction cases in El Paso County.

b. Violent offenses (murder/manslaughter, rape, robbery, and aggravated assault) represent 33 percent of all offenses in the Phase II counties.

Table 06-5 represents the judgments of youth judicially waived in Phase II counties. One youth was found not guilty; two were dismissed; four were held open or pending; and, in four cases, the judgment was unknown. Of the known judgments, 81 percent (13) resulted in guilty findings.

TABLE 06-5. COLORADO: JUDICIAL WAIVERS TO ADULT COURTS IN PHASE II COUNTIES (BY COUNTY AND BY JUDGMENT) IN 1978

County	Total Waivers	Judgments					
		Not Guilty	Dismissed	Referred to Juvenile Court	Guilty	Other[b]	Unknown
Adams	5	1	0	0	3	1	0
Arapahoe	2	0	0	0	1	1	0
Denver	7	0	2	0	5	0	0
El Paso	5[a]	*	*	*	2	2	1
Jefferson	5	*	*	*	2	*	3
State Phase II Total	24[a]	1	2	0	13	4	4

* denotes Not Available.

a. Includes both the two judicial waiver and three concurrent jurisdiction cases in El Paso County.

b. Held open or pending.

Table 06-6 shows the sentences of the 13 youth in Phase II counties found guilty. Eight out of 12 youth (67 percent) were sentenced to adult corrections institutions, two received probation, and one was out on bond, awaiting an appeal. The sentence was unknown in one case.

TABLE 06-6. COLORADO: SENTENCES REPORTED FOR CONVICTIONS ARISING FROM JUDICIAL WAIVERS TO ADULT COURTS IN PHASE II COUNTIES (BY COUNTY AND BY SENTENCE TYPE) IN 1978

County	Total Convictions	Sentence Types						
		Fined	Probation	Jail	State Adult Corrections Facilities	State Juvenile Corrections Facilities	Other	Unknown
Adams	3	0	0	0	2 est	0	1[a] est	0
Arapahoe	1	0	1	0	0	0	0	0
Denver	5	1	0	0	4	0	0	0
El Paso	2[b]	*	*	*	1	*	*	1
Jefferson	2	0	1	0	1	0	0	0
State Phase II Total	13[b]	1	2	0	8	0	1	1

* denotes Not Available.

a. Awaiting an appeal.

b. May include both judicial waiver and concurrent jurisdiction cases in El Paso County.

Table 06-7 displays the maximum sentence lengths of youth sentenced to adult corrections institutions in Phase II counties. Two youth received indefinite sentences, one received a life sentence, 50 percent (four) received maximum sentences of five years or under, and one received a maximum sentence of between five and ten years.

TABLE 06-7. COLORADO: LENGTH OF CONFINEMENT REPORTED FOR SENTENCES ARISING FROM JUDICIAL WAIVERS TO ADULT COURTS IN PHASE II COUNTIES (BY COUNTY AND BY MAXIMUM SENTENCE) IN 1978

County	Total Confinements	Sentence Maximums: One Year or Less	One+ to 3 Years	3+ to 5 Years	5+ to 10 Years	Over 10 Years	Indeterminate	Life	Death
Adams	2	0	0	0	0	0	2	0	0
Denver	4	0	2	2	0	0	0	0	0
El Paso	1[a]	0	0	0	0	0	0	1	0
Jefferson	1	0	0	0	1	0	0	0	0
State Phase II Total	8[a]	0	2	2	1	0	2	1	0

a. May include either a judicial waiver or a concurrent jurisdiction case in El Paso County.

Concurrent Jurisdiction

This section contains a series of tables and a brief discussion pertaining to the Phase II information gathered about youth referred to adult courts during 1978 through the state's concurrent jurisdiction mechanism. As pointed out previously, the three concurrent jurisdiction cases referred from El Paso County are excluded from the following findings and were considered under judicial waivers. Therefore, only cases from Denver and Jefferson Counties are represented below.

Table 06-8 reflects the age, sex, and race distribution of the 23 youth referred directly to adult court in Phase II counties. Seventy percent (16) of the youth were 17 years of age, all were males, and race data were generally unavailable.

TABLE 06-8. COLORADO: PROSECUTORIAL REFERRALS TO ADULT COURTS DUE TO CONCURRENT JURISDICTION IN PHASE II COUNTIES (BY COUNTY AND BY AGE, SEX, AND RACE) IN 1978

County	Total Referrals	Age				Sex		Race		
		0-15	16	17	18+	Male	Female	White	Minority	Unknown
Adams	0	0	0	0	0	0	0	0	0	0
Arapahoe	0	0	0	0	0	0	0	0	0	0
Boulder	0	0	0	0	0	0	0	0	0	0
Denver	22	0	7 est	15 est	0	22 est	0	*	*	22
El Paso	3[a]	*	*	*	*	*	*	*	*	*
Jefferson	1	0	0	1	0	1	0	1	0	0
State Phase II Total	26[a]	0	7	16	0	23	0	1	0	22

* denotes Not Available.

a. The three cases in El Paso County could not be separated from the judicial waiver cases and were included in Tables 06-3 through 06-7. Therefore, Tables 06-9 through 06-12 reflect no concurrent jurisdiction cases from El Paso County.

Table 06-9 indicates that the 23 youth referred to adult courts in Denver and Jefferson Counties due to concurrent jurisdiction were charged with relatively serious offenses. Fifty-seven percent (13) of the Phase II cases were referred on a burglary or breaking and entering charge; the remainder (ten) were charged with violent offenses. A graphic representation of these findings is given in Figure 06-3.

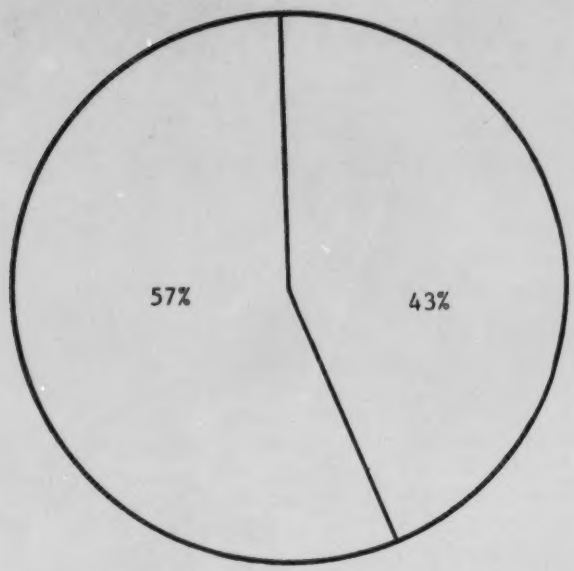
TABLE 06-9. COLORADO: PROSECUTORIAL REFERRALS TO ADULT COURTS DUE TO CONCURRENT JURISDICTION IN PHASE II COUNTIES (BY COUNTY AND BY TYPE OF OFFENSE) IN 1978

County	Total Referrals	Offenses[a]									
		Murder/ Manslaughter	Rape	Robbery	Assault/ Battery	Aggravated Assault	Other Personal	Burglary	Other Property	Public Order	Other General
Denver	22	1	4 est	4 est	0	0	0	13 est	0	0	0
Jefferson	1	0	0	0	0	1	0	0	0	0	0
State Phase II Total	23[b]	1	4	4	0	1	0	13	0	0	0

a. Only most serious offense per individual is listed.

b. The three cases in El Paso County could not be separated from the judicial waiver cases and were included in Table 06-4.

FIGURE 06-3. COLORADO: PERCENTAGE OF PROSECUTORIAL REFERRALS TO ADULT COURTS DUE TO CONCURRENT JURISDICTION IN PHASE II COUNTIES (BY OFFENSE CATEGORY) IN 1978[a]



Offenses[b]	
Personal	43%
Property	57%
Public Order	0%
Other General	0%

N= 23

a. The three cases in El Paso County could not be separated from the judicial waiver cases and were included in Figure 06-2.

b. Violent offenses (murder/manslaughter, rape, robbery, and aggravated assault) represent 43 percent of all offenses in the Phase II counties.

Table 06-10 displays the judgments received in the 23 cases in Phase II counties. All 23 received guilty convictions. Of the 23 youth found guilty, 11 received probation and 12 were sent to adult corrections institutions.

TABLE 06-10. COLORADO: PROSECUTORIAL REFERRALS TO ADULT COURTS DUE TO CONCURRENT JURISDICTION IN PHASE II COUNTIES (BY COUNTY AND BY JUDGMENT) IN 1978

County	Total Referrals	Not Guilty	Dismissed	Referred to Juvenile Court	Guilty	Other
Denver	22	0	0	0	22	0
Jefferson	1	0	0	0	1	0
State Phase II Total	23[a]	0	0	0	23	0

a. The three cases in El Paso County could not be separated from the judicial waiver cases and were included in Table 06-5.

Table 06-11 reflects that while state juvenile facilities, operated by the Colorado Department of Institutions, were possible alternatives for these youthful defendants, none of them were sentenced to juvenile confinement.

TABLE 06-11. COLORADO: SENTENCES REPORTED FOR CONVICTIONS ARISING FROM PROSECUTORIAL REFERRALS DUE TO CONCURRENT JURISDICTION IN PHASE II COUNTIES (BY COUNTY AND BY SENTENCE TYPE) IN 1978

County	Total Convictions	Fined	Probation	Jail	State Adult Corrections Facilities	State Juvenile Corrections Facilities	Other
Denver	22 est	0	11 est	0	11 est	0	0
Jefferson	1	0	0	0	1	0	0
State Phase II Total	23[a]	0	11	0	12	0	0

a. The three cases in El Paso County could not be separated from the judicial waiver cases and were included in Table 06-6.

As shown in Table 06-12, of the 12 cases committed to corrections facilities from Phase II counties, ten received indeterminate sentences, one received a maximum sentence of over ten years (but not life), and one received a maximum sentence of over five years.

TABLE 06-12. COLORADO: LENGTH OF CONFINEMENT REPORTED FOR SENTENCES ARISING FROM PROSECUTORIAL REFERRALS DUE TO CONCURRENT JURISDICTION IN PHASE II COUNTIES (BY COUNTY AND BY MAXIMUM SENTENCE) IN 1978

County	Total Confinements	One Year or Less	One+ to 3 Years	3+ to 5 Years	5+ to 10 Years	Over 10 Years	Indeterminate	Life	Death
Denver	11 est	0	0	0	0	1	10 est	0	0
Jefferson	1	0	0	0	1	0	0	0	0
State Phase II Total	12[a]	0	0	0	1	1	10	0	0

a. The three cases in El Paso County could not be separated from the judicial waiver cases and were included in Table 06-7.

Table 06-13 provides a summary of the number of cases reported in the preceding tables concerning total referrals to adult courts, the number selected for Phase II investigation, and findings concerning conviction and confinement practices applicable to these youth. In total, 41 youth were referred by the judicial waiver mechanism and 26 youth were directly filed upon by prosecutors. Of those cases which were further investigated under Phase II data collection procedures, a little over one-half (13) of the waived youth and practically all of the prosecutorially referred youth were convicted. Finally, it can be seen that eight and 12 youth were confined, respectively. Conversely, it may be stated that 33 percent and 48 percent of the convictions, respectively, resulted in probations and fines.

TABLE 06-13. COLORADO: SUMMARY OF TABLES (BY LEGAL MECHANISM)

	Judicial Waiver	Concurrent Jurisdiction
Total Referrals to Adult Courts in 1978 (Table 06-1)	41	26
Total Referrals Selected for Phase II (Tables 06-3 and 06-8)	21 (24)[a]	26 (23)[a]
Total Referrals Resulting in Convictions (Tables 06-6 and 06-11)	13[a]	23[a]
Total Convictions Resulting in Sentences of Confinement (Tables 06-7 and 06-12)	8[a]	12[a]

a. Officials in El Paso County could not distinguish between youth referred to adult court through judicial waiver and concurrent jurisdiction provisions for purposes of reporting Phase II data. The county's three concurrent jurisdiction cases are, therefore, included with the judicial waivers in the presentation of Phase II data. Thus, for purposes of data presentations, 24 youth are reported upon under judicial waivers and 23 youth under concurrent jurisdiction.

Based on the limited available data, provided to the Academy by the Denver Juvenile Court, it appears that substantial numbers of waiver hearings do not result in judicial waivers. As indicated in Table 06-14, during fiscal 1975-76, only one-third of the 75 requests for waiver acted upon statewide were granted. More recent data (fiscal 1978-79), covering only the Denver Juvenile Court, indicates that, of 17 requests for waiver filed, nine were granted, five were denied, and three were withdrawn.

TABLE 06-14. COLORADO: REQUESTS FOR TRANSFERS OF JUVENILES TO CRIMINAL COURT (BY DISTRICT AND BY JUVENILE COURT DECISIONS) IN FISCAL 1975-76[a]

District	No. of Waiver Requests	No. of Requests Dismissed By D.A.	No. of Requests Granted	No. of Requests Denied	No. of Requests Pending
1	3	1	2	0	0
2	26	14	9	3	0
3	0	0	0	0	0
4	15	7	4	4	0
5	2	0	0	2	0
6	0	0	0	0	0
7	0	0	0	0	0
8	0	0	0	0	0
9	0	0	0	0	0
10	11	6	3	2	0
11	0	0	0	0	0
12	1	1	0	0	0
13	0	0	0	0	0
14	0	0	0	0	0
15	0	0	0	0	0
16	0	0	0	0	0
17	5	5	0	0	0
18	6	0	5	1	0
19	6	0	1	2	3
20	0	0	0	0	0
21	0	0	0	0	0
22	0	0	0	0	0
Total	75	34	24	14	3

a. Information provided by the Denver Juvenile Court.

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The transfer hearings constitute a negligible proportion of total juvenile court cases in Colorado, which has increased from 31,633 to 37,697 from fiscal 1975-76 to fiscal 1978-79. Indeed, as Table 06-15 illustrates, judicial waivers and youth tried as adults under concurrent jurisdiction constitute a very small proportion of criminal court case loads. Table 06-15 also illustrates how the total juvenile court case load constitutes a small percentage of total district court case load, ranging from 14.96 percent in fiscal 1975-76 to 16.62 percent in fiscal 1978-79.

TABLE 06-15. COLORADO: DISTRICT COURT CASE LOAD, FISCAL 1975-76 TO FISCAL 1978-79[a]

	Fiscal 1975-76	Fiscal 1976-77	Fiscal 1977-78	Fiscal 1978-79
JUVENILE				
Cases Pending July 1	8,795	7,618	11,564	14,038
New Cases Filed	16,405	16,777	16,550	16,497
Post-Judgment Actions	6,433	6,060	6,317	7,162
TOTAL Case Load	31,633	30,455[b]	34,431	37,697
Cases Terminated	24,015[b]	18,891	13,751	13,361
Post-Judgment Terminations			6,642	7,603
Cases Pending June 30	7,618	11,564	14,038	16,733
CRIMINAL				
Cases Pending July 1	10,031	10,605	12,415	11,603
New Cases Filed	11,641	11,661	11,404	11,614
Post-Judgment Actions	2,693	4,029	3,621	3,673
TOTAL Case Load	24,365	26,295	27,440	26,890
Cases Terminated	13,760[b]	13,880[b]	9,296	9,661
Post-Judgment Terminations			6,541	4,667
Cases Pending June 30	10,605	12,415	11,603	12,562

a. All district courts plus Denver Superior, Denver Juvenile, and Denver Probate Courts. Information provided by the Denver Juvenile Court.

b. Terminations and post judgment terminations are combined.

In summary, in 1978 few juveniles in Colorado were referred to adult courts through judicial waiver or concurrent jurisdiction. In Phase II counties, most of the juveniles referred were 17 years of age or older--75 percent of the judicial waiver cases and 70 percent of the concurrent jurisdiction cases; they were predominantly males--87 and 100 percent, respectively; and more minority group members were judicially waived than white youth. Burglary and other property offenses represented the largest category of offenses, with 55 percent (11) of the known judicial waivers and 57 percent (13) of the concurrent jurisdiction cases. Personal offenses accounted for 45 percent of known judicial waivers and 43 percent of the concurrent jurisdiction cases. Most of the cases resulted in guilty findings--81 percent and 100 percent, respectively. Sixty-seven percent of the judicial waivers and 52 percent of the concurrent jurisdiction cases were incarcerated.

Routinely Handled Traffic Offenses

When juveniles violated a Colorado traffic ordinance in 1978, the hearings routinely took place in adult courts. This section presents estimated information, by county, on the number of youth referred to adult courts due to routine traffic offenses. Sixty-two of the state's 63 counties were contacted for these data; however, only 47 counties were able to report estimates. Table 06-16 displays the data that were reported. It can be seen that a total of 5,198 youth were referred to adult courts in 1978 due to traffic offenses (among the 47 reporting counties). Counties with comparatively higher numbers of such referrals included Weld (900), Pueblo (649), and Otero (320). Data from Denver County were unavailable.

TABLE 06-16. COLORADO: JUVENILE REFERRALS TO ADULT COURTS FOR EXCLUDED TRAFFIC OFFENSES (BY COUNTY, JUVENILE POPULATION, AND FREQUENCY OF OFFENSES) IN 1978

County	Juvenile Population (Ages 8-17)[a]	Number of Excluded Traffic Offenses
Adams	46,420	*
Alamosa	2,058	221 est
Arapahoe	42,817	**
Archuleta	700	8 est
Baca	990	220 est
Bent	1,048	37 est
Boulder	28,898	*
Chafee	2,224	194 est
Cheyenne	421	65 est
Clear Creek	958	43 est
Conejos	2,010	5 est
Costilla	659	38 est
Crowley	547	50 est
Custer	159	6 est
Delta	2,981	50 est
Denver	70,848	*
Dolores	310	25 est
Douglas	3,458	2 est
Eagle	1,957	100 est
Elbert	1,179	10 est

TABLE 06-16. (Continued)

County	Juvenile Populations (Ages 8-17)[a]	Number of Excluded Traffic Offenses
El Paso	52,169	*
Fremont	4,187	*
Garfield	2,869	*
Gilpin	342	75 est
Grand	1,109	20 est
Gunnison	1,199	*
Hinsdale	28	2
Huerfano	1,090	*
Jackson	302	70 est
Jefferson	62,817	*
Kiowa	419	5 est
Kit Carson	1,496	*
Lake	1,736	96 est
La Plata	4,287	100 est
Larimer	19,310	*
Las Animas	2,680	159 est
Lincoln	874	30 est
Logan	3,387	300 est
Mesa	10,555	200 est
Mineral	205	1 est
Moffat	1,944	12 est
Montezuma	3,058	*
Montrose	4,210	*
Morgan	4,450	*
Otero	4,808	320 est
Ouray	316	20 est
Park	845	128 est
Phillips	764	20 est
Pitkin	1,319	*
Prowers	2,645	184 est
Pueblo	22,242	649
Rio Blanco	963	15 est
Rio Grande	2,154	300 est
Routt	1,868	109 est
Saguache	768	48 est
San Juan	138	2
San Miguel	468	15 est

TABLE 06-16. (Continued)

County	Juvenile Populations (Ages 8-17)[a]	Number of Excluded Traffic Offenses
Sedgwick	554	75 est
Summit	1,045	100 est
Teller	1,102	6
Washington	887	28 est
Weld	19,203	900 est
Yuma	1,473	135 est
Total	458,927	5,198 est

* denotes Not Available.
** denotes Not Surveyed.

a. 1978 population estimates were developed by the National Center for Juvenile Justice using data from two sources: the 1970 national census and the National Cancer Institute 1975 estimated aggregate census.

RESULTS OF ON-SITE INTERVIEWS

Academy staff conducted on-site interviews with juvenile justice specialists in Denver, Castle Rock, Colorado Springs, and Littleton in January, 1980. Those interviewed included juvenile and district court judges, corrections officials, public defenders, district attorneys, probation officers, and juvenile justice researchers. Respondents' perceptions of the effects of trying juveniles as adults are presented in the following sections.

Perceived Effects on the Court System of Trying Youth as Adults

The respondents agreed that trying youth in adult courts in Colorado is having little impact on case loads or operational costs for the courts, and it does not greatly increase the case loads of the district attorneys. In fiscal 1978, over 39,000 juveniles were arrested, with 6,000 delinquency

filings reported. Of these, there were only 41 judicial waivers and 26 cases of direct filings in adult courts by prosecutors (concurrent jurisdiction).

It is possible that the removal of youth from juvenile court jurisdiction would allow for a greater concentration of resources for the juveniles who might be left in the juvenile court programs. However, the number of individuals being transferred in Colorado are generally perceived to be not sufficient to greatly affect the allocation of resources available to juvenile court programs.

Perceived Effects on the Corrections System of Trying Youth As Adults

The Colorado Department of Corrections does not have a separate youthful offender program. Youth transferred for criminal court prosecution, upon sentence to the Department of Corrections, are first housed at the department's central diagnostic center at the Canon City Institution. Upon completion of the diagnostic program there, they are then placed in one of the other Department of Corrections' institutions. The number of youth commitments under 18 years of age is insignificant; out of the total Department of Corrections' new court commitments in fiscal 1979 (a population of 1,133), there were only 19 individuals under 18 years of age.[40] As of January 22, 1980, there were only 16 individuals under 18 years of age in Colorado's adult corrections facilities.[41] Therefore, the major problem that the Department of Corrections faces is in isolating these limited numbers of youth from the rest of the Department of Corrections population. It is also necessary for the Department of Corrections, in many instances, to provide special programs for special needs exhibited by this age group.

It is not at all surprising, then, that most persons interviewed believed that trying youth in Colorado adult courts, because of the low number of waived or direct-file cases, is having little effect on either the state adult corrections facilities or state juvenile corrections facilities. It was noted by some, however, that removing "hardened" youth from juvenile facilities is an advantage to the juvenile corrections system. Respondents believed that the juveniles left in these facilities had, as a result, a greater chance for rehabilitation. On the other hand, overcrowding in adult facilities was mentioned by some interviewees as having a negative effect.

As noted earlier, even though youth tried in adult courts can be sent to juvenile courts for disposition to juvenile facilities, this option was not reported utilized during our data collection year of 1978. The data do indicate that 55 percent of the youth were incarcerated in adult facilities after conviction in criminal courts, whether getting there as a result of judicial waiver or prosecutorial discretion.

Most of the juveniles placed in juvenile institutions in Colorado serve an indeterminate sentence, but the average length of stay at this time was estimated to be about six months. Fifty-nine percent of all new court admissions (adult, as well as youth) to the Department of Corrections in fiscal 1978-79 received indeterminate sentences. The average maximum of indeterminate sentences at the Department of Corrections was 4.9 years.[42] Thus, although the length of stay for individuals under 18 years of age may differ from the average for the total Department of Corrections population, these data suggest that youth under 18 years of age incarcerated in adult facilities may receive longer terms than their peers who remain in the juvenile system, when sentenced to incarceration.

Officials at the Colorado Division of Youth Services summarize the current legislative issues concerning sentencing into two areas:

- Providing for detention of youth who are currently jailed, or for which there is no provision for detention or jailing.
- The shifting of authority for sentencing, placement, and treatment from the judiciary to the district attorneys.

Perceived Effects on Offenders of Being Tried as Adults

Greater due process, better legal representation, the possibility of bail, a slightly greater chance of not being institutionalized (particularly for a first offense), and more lenient probation were all cited as advantages for youth tried in adult courts. On the other hand, the most frequently mentioned disadvantages for youth tried in adult courts included the receipt of harsher sentences for serious offenders found guilty, the threat of physical or sexual abuse in adult corrections facilities, and receiving few rehabilitative services. One interviewee did state that there were no advantages for offenders who are waived.

In Colorado, the juvenile courts and the criminal courts are both a part of the district courts, except in Denver. In many jurisdictions, juvenile court responsibilities are assigned on a rotational basis, and judges assigned to juvenile hearings hear only juvenile cases. In some of the smaller judicial districts, however, a judge may hear the case as a juvenile judge, waive juvenile jurisdiction, and hear the case as a criminal court judge. While due process and constitutional safeguards may not be major issues in Colorado, the juvenile court judges, especially in cases where they are handling serious felonies that may end up being transferred, expressed some concern. However, problems with due process issues were generally thought to be mitigated by the safeguards built into the Colorado system, including jury trials in juvenile courts.

It should be noted that a 1978 study by the Colorado Commission on Children and Their Families, based on interviews with juvenile justice treatment personnel and administrators, found that "youth were often released too soon from the facilities of the Division, usually because of overcrowding, and that this early release worked to the detriment of both the youth and the community."[43]

Perceived Effects on the Public on Trying Youth As Adults

Advantages to the general public of trying youth in adult courts most often named by interviewees were enhanced public safety and longer periods of incarceration. Some respondents noted that the public perceives an increase in safety when youth are processed by the adult court system and desires vindication and more severe sentencing of serious juvenile offenders. Disadvantages cited from trying youth in adult courts were the negative long-term effects on youth and the public, resulting from incarceration of youth with hardened criminals.

Perceptions of Factors to Be Considered in the Referral of Youth to Adult Courts

Statutorily, there are a number of factors that the Colorado juvenile courts must consider in the decision to waive juvenile jurisdiction (see "Transfer Process"). Respondents' perceptions of critical factors were very similar to those mandated. The youth's past record was cited most frequently by interviewees as the most salient indicator of non-amenability to treatment as a juvenile. Severity of offense and the circumstances surrounding the offense were named next most frequently. The youth's lack of potential for rehabilitation and the lack of services available to the juvenile courts were also deemed important by a significant number of respondents.

Perceptions of Needed Changes in the Referral of Youth to Adult Courts

As has been mentioned earlier in this report, the whole issue of transferring youth to the adult courts does not seem to be a major area of concern in Colorado.

Interviewees were divided on the issue of trying youth in adult courts. Some thought that the concurrent jurisdiction provision should be eliminated because it gives district attorneys too much discretion and because its usage is neither uniform nor predictable. One public defender called for elimination of the waiver provision as well, stating that, without exception, juveniles should be treated as juveniles. Other respondents, however, thought the direct file provision a good one--it is rarely used, and when invoked, it is for the most serious offenses.

Based on available data and the perceptions of the respondents, there did not seem to be abuses of the transfer process in Colorado. There are a relatively small number of juveniles transferred to the adult courts each year. Of those being transferred, there seems to be sufficient evidence to warrant transfer. Once transferred, however, they do not always end up incarcerated in adult institutions, which appears to be a major motive for referring youth to adult courts.

The most generally agreed-upon change in Colorado's system was the need for greater dispositional alternatives in both juvenile and adult courts. Some interviewees thought that juveniles tried as adults should be placed in juvenile facilities until they reach the age of 21, similar to the New York procedure. Several interviewees called for more treatment options for juvenile offenders. These should include psychological evaluations and additional mental health facilities. One respondent noted that private resources could also be developed for these purposes.

For most of the respondents, the ideal system for trying youth as adults in Colorado would be similar to that which presently exists. They generally thought that the ideal system should allow for only the transfer of those older youth who exhibit a continued pattern of delinquent activity. A transfer should not be based strictly on a particular crime of violence as the single determing factor for transfer, in their collective judgment.

SUMMARY AND CONCLUSIONS

In Colorado, individuals under 18 years of age may be tried as adults under three different mechanisms. First, juveniles 14 years of age or older charged with an offense which would be a felony if committed by an adult may be judicially waived to adult courts following a waiver hearing. Second, juvenile courts and adult courts have concurrent jurisdiction over certain offenses, beginning at age 14 for serious felonies. In these cases, district attorneys decide in which court to prosecute the case. Finally, juveniles 16 years of age or older charged with traffic and fish and game violations are tried exclusively in adult courts.

The 1978 data collected shows that very few Colorado youth were tried in adult courts. The majority of these youth were charged with property

offenses, whether the adult trials resulted from judicial waiver or from concurrent jurisdiction. The similarity in the types of offenses prosecuted under the two mechanisms is, in part, due to some overlap in the offenses covered by the two mechanisms. The major variation in mechanism use appears to be geographic; Denver was far more likely to use the concurrent jurisdiction mechanism. Resolution of the current conflict over some district attorneys interpreting their discretion under the concurrent jurisdiction provision as mandatory adult court referral (and, hence, an excluded offense mechanism), may affect this geographical divisiveness.

The attitudes of the individuals in Colorado who were interviewed seemed to indicate that the judicial waiver and concurrent jurisdiction procedures were very adequate in providing for the prosecution of youth as adults. The whole transfer issue did not seem to be a major problem in Colorado, in that it was very sparingly used. It appears that the juvenile courts have sufficient options available to it to provide for care, supervision and institutionalization, when needed for the juveniles, so that there are very few youth transferred to the adult courts for prosecution. Our respondents did argue, however, that more options and facilities for juveniles should be available.

Finally, the respondents were generally satisfied that the Colorado system for trying youth as adults is serving its purpose. Given the small number of youth involved, its major effect may be on the public's perception of enhanced safety and greater retribution for serious juvenile offenders.

FOOTNOTES

1. Original Juvenile Statute, Laws of 1903, p. 178, Ch. 85.
2. Laws of 1923, Section 1, p. 197.
3. Laws of 1967, Ch. 443, Section 22-1-3(17)(a)-(i), p. 995.
4. Laws of 1923, Section 1, p. 119.
5. Laws of 1953, Section 37-1, p. 1039.
6. Laws of 1953, Section 22-8, p. 625.
7. Laws of 1959, Section 22-8-1.
8. 1963 Colorado Children's Code, Section 22-8-1(3)(a).
9. Laws of 1967, Ch. 443, Section 22-1-4, p. 996.
10. Laws of 1967, Ch. 443, Section 22-1-4(4)(a), p. 995.
11. Laws of 1967, Ch. 443, Sections 22-1-7 and 22-3-8.
12. Laws of 1973, Section 1, p. 384.
13. People v. District Court of Adams County, 420 P.2d 236 (1966).
14. I. R. v. People, 464 P.2d 296 (1970).
15. Jaramillo v. District Court, 480 P.2d 841 (1971). See also Vigil v. People, 484 P.2d 105 (1971).
16. Maddox v. People, 497 P.2d 1263 (1972).
17. People in Interest of G. A. T., 515 P.2d 104 (1973).
18. Myers v. District Court, 518 P.2d 836 (1974).
19. People v. District Court, Juv. Div., 549 P.2d 1317 (1976).
20. D. H. v. People, 561 P.2d 5 (1977).
21. People v. Mosely, Jr., 566 P.2d 331 (1977).
22. Stroh v. Johnson, 572 P.2d 840 (1978).
23. Colorado's Children's Code, Section 19-3-112(a)-(d) and 19-3-113 (a)-(e).
24. Colorado Children's Code, Section 19-3-113.1(1)(2), as provided by the Colorado Department of Institutions; Colorado Revised Statutes Annotated, Sections 19-8-104(4), 19-3-113.1, and 19-3-112(1)(g) were all repealed in 1979.
25. Colorado Revised Statutes Annotated, Section 19-1-103(2).
26. Colorado Revised Statutes Annotated, Sections 19-1-104(4)(a) and 19-3-108.
27. Colorado Revised Statutes Annotated, Section 19-3-108.
28. Ibid.
29. Colorado Revised Statutes Annotated, Section 19-3-108(4)(a).
30. Colorado Revised Statutes Annotated, Section 19-1-104(4)(b)(III).
31. Colorado Revised Statutes Annotated, Section 19-1-104(4)(c).
32. Laws of 1953, Section 22-9, p. 625.
33. Myers v. District Court, 518 P.2d 836 (1974).
34. Colorado Revised Statutes Annotated, Section 19-1-103(9)(I).
35. Colorado Children's Code, Section 19-1-106.
36. Colorado Children's Code, Section 19-2-103(1)(2)(3), and (8).
37. Colorado Revised Statutes Annotated, Section 19-2-103(6)(a) and (b).
38. Colorado Department of Corrections, Office of Research and Evaluation, Annual Statistical Report, Fiscal Year 1978-79 (Denver, Colo.: 1979).

FOOTNOTES (Continued)

39. Juvenile Justice Digest, September 5, 1980, p. 7.
40. Colorado Department of Corrections, Annual Statistical Report, 1979.
41. Data supplied by the Denver Juvenile Court.
42. Colorado Department of Corrections, Annual Statistical Report,1979.
43. Colorado Commission on Children and Their Families, Who Speaks For Me?: Policies and Recommendations for Change (Denver, Colo.: 1978).

KANSAS PROFILE

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METHODOLOGY

Information on the number of judicial waivers occurring in Kansas counties was obtained from the Annual Report on the Courts of Kansas for the period July 1, 1977 through June 30, 1978. Interviews were then conducted with local officials by the Wyandotte Association in counties meeting Phase II selection criteria for judicial waiver. These counties ranked in the ten percent most populous counties in the state, or their juvenile courts were reported in the Annual Report on the Courts of Kansas to have waived five or more youth to adult court. Local interviews sought a number of different types of information, both about judicial waivers, and other types of transfers allowed in Kansas.

First, the locally reported frequency of judicial waiver was requested from these 11 counties, along with age, sex, race, offense, disposition, and sentence information related to youth judicially waived to adult court.

A note should be made about state reported incidence of waiver for counties qualifying for Phase II investigation, and the frequency reports received from the 11 counties themselves. There was little correspondence in the incidence of judicial waiver reported by state and local authorities for these counties. Considerable evidence points to the fact that the two levels of government were reporting waiver frequency for different time intervals. In the belief that both reports may accurately represent the phenomenon for different time periods, both have been included under separate Phase I frequency tables at the beginning of the data summary. Thereafter, all Phase II data on judicial waivers that is included in the profile is from local sources.

In addition to information on judicial waivers, data was collected locally about the number of cases heard in adult court due to the commission of an offense excluded from juvenile court jurisdiction, and due to a previous and final waiver of juvenile court jurisdiction. This other information was collected in counties meeting Phase II selection criteria for judicial waiver, and should not be considered to be a definitive statement about the legal mechanisms described. Instead, it best serves as an indicator about transfers other than judicial waiver derived from counties where their relative incidence might be expected to be more frequent than elsewhere in the state. Phase II information is not presented on these legal mechanisms because of difficulties experienced in retrieval.

In summary, Phase I information was collected on judicial waivers for all counties from state sources, as well as for all mechanisms only in the survey of Phase II counties. Phase II data was only collected on judicial waivers in the Phase II counties.

COURT ORGANIZATION

District courts in Kansas are the highest courts of general jurisdiction. In some instances, a district court will exercise its jurisdiction in more than one county. The authority of a district court is exercised by district judges, associate district judges, and magistrate district judges.

There have been no separate juvenile courts in Kansas since 1974 when juvenile courts were unified with district courts. Since then, the juvenile sessions of district courts (hereafter referred to as juvenile courts) have heard cases that arise under the juvenile code. In some judicial districts, only one of the judges of the district will hear juvenile cases. In other districts, all the judges will hear juvenile cases, on a rotation basis. If the judge hearing a juvenile case is a magistrate district judge, the judge's order may be appealed to a district or associate district judge. If a juvenile is waived for prosecution as an adult, the prosecution will be conducted in the adult session of a district court.

Traffic offenses by juveniles are often handled in district courts, but can also be dealt with in municipal courts along with traffic violations against adults.

An overview of Kansas' courts by their jurisdiction over juveniles appears below.

KANSAS: COURT JURISDICTION OVER JUVENILES IN 1978

General Juvenile Jurisdiction	Jurisdiction over Transferred Juveniles	Juvenile Traffic
Juvenile Sessions of District Courts	Adult Sessions of District Courts	Adult Sessions of District Courts Municipal Courts[a]

a. Driving while intoxicated, reckless driving, vehicular homicide, eluding a police officer, or driving with a revoked license may be tried under the Kansas Juvenile Code.

TRANSFER PROCESS

In Kansas, the initial age of juvenile court jurisdiction extends to 18 years of age.[1] Individuals under the age of 18 may be transferred from juvenile to adult court by two legal mechanisms.

Judicial Waiver

Persons 16 years or older at the time of an alleged violation of any criminal statute may be judicially waived for trial as adults. Generally, the county or district attorneys initiate the waiver procedure.[2] The juvenile courts must hold judicial waiver hearings and find that juveniles are not fit and proper subjects to be dealt with under the Kansas Juvenile Code, and that juveniles would not be amenable to the care, treatment, and training programs available through the facilities of the juvenile court.[3] Effective July 1, 1971 factors to be considered in making this determination were codified as follows:

> (1) Whether the seriousness of the alleged offense is so great that the protection of the community requires criminal prosecution of the child; (2) whether the alleged offense was committed in an aggressive, violent, premeditated or willful manner; (3) the maturity of the child as determined by consideration of the child's home, environment, emotional

attitude and pattern of living; (4) whether the alleged offense was against persons or against property, greater weight being given to offenses against persons, especially if personal injury resulted; (5) the record and previous history of the child; (6) whether the child would be amenable to the care, treatment and training program for juveniles available through the facilities of the court; and (7) whether the interests of the child or of the community would be better served by criminal prosecution of the child.[4]

In addition, a waiver order transferring a juvenile to adult court for trial, may specify that any subsequent offenses by the youth will be dealt with directly in criminal court.[5] This provision is frequently referred to under the rubric of "once waived, always waived."

Excluded Offenses

Juveniles 16 or 17 years old and committed to a state institution will automatically be subject to adult prosecution if accused of some charges excluded from juvenile court jurisdiction. These charges include burning a building, and aggravated assault on an employee of the institution.

In addition, for the reporting period included for study, all defendants over 13 years of age accused of traffic offenses, except driving while intoxicated, reckless driving, vehicular homicide, eluding a police officer, or driving with a revoked license, were excluded from juvenile court jurisdiction and treated in the same manner as adults.[6] As of July 1, 1978, juveniles under 16 years of age charged with minor traffic violations are handled in juvenile courts, as are serious juvenile traffic violations.

CASE LAW SUMMARY

A search of relevant case law in Kansas was conducted back to 1950 and noteworthy cases are discussed below. The Kansas Supreme Court had its first opportunity in 1966 to evaluate the state's waiver statute in light of the rules set forth in Kent v. U.S.[7] In State v. Owens, the provisions of the statute were held to set forth adequate standards for determining when jurisdiction could be waived and the statute was held not to unlawfully delegate legislative authority to the judiciary.[8] In Templeton v. State, the statute was held to meet the requirements of due process and equal protection, since it required the judge to base his/her finding of lack of

amenability upon substantial evidence.[9] The juvenile's attorney must be advised of and afforded access to any documents used by the court, and the court must accompany its waiver order with a statement of reasons in order to allow for a meaningful review. The court approved the waiver order granted in the Templeton case, stating that it was based upon substantial evidence focusing upon the juvenile's demonstrated nonamenability to treatment as well as the seriousness of the crimes charged. The Templeton court also held that where an appeal is taken to the adult session of district court from a waiver hearing ordered by the juvenile court, the district judge must hear the case de novo. This point was also at issue in Long v. State, where it was held that an appeal from a waiver hearing is to be heard and disposed of just as if waiver proceedings had originated in the adult session of district court and not in juvenile court.[10] The district court judge is not bound in any way by the juvenile court's findings of fact or conclusions. However, the parties may agree to submit matter on appeal from waiver on the same evidence heard and considered by the juvenile judge.

In the case of In re Patterson, three juveniles who were accused of first degree murder were found to be unamenable to treatment in facilities available to the juvenile court and were waived to adult court.[11] Upon appeal, substantial evidence was available to the Kansas Supreme Court to indicate that two of the boys would be amenable to treatment, if facilities were available of a type similar to those available to juvenile courts of other states. The supreme court remanded all three boys back to the juvenile court, basing the remand order upon the reasoning that the seriousness of the offense alleged cannot be the prime consideration in a decision to waive jurisdiction since juvenile proceedings are concerned with the welfare of children and are not punitive in nature. The supreme court recommended placement of all three boys within other facilities, within or out of the state, using public or private sources.

In State v. Shepard, a youth sought to challenge a waiver order before the supreme court, without first appealing the order to the district court.[12] The supreme court held this procedure to constitute a collateral attack upon a finding of fact by the juvenile court, which was impermissable.

The case of State v. Green [13] found the court taking pains to distinguish the facts presented there from that in In re Patterson. In Green, substantial evidence had been assembled at the juvenile court level indicating that the youth was not amenable to treatment through state institutions or the one private institution examined. The youth's contention that all institutions should have been examined was rejected as placing an excessive burden on the courts, especially where counsel for the defendant cannot suggest alternatives. The court also rejected the claim advanced that the waiver statute unlawfully discriminated between children under 16 years old and children over 16 years of age. The court held that the legislature might lawfully make this distinction so long as each child within the nonprotected class of children over 16 years was treated equally.

As a result of In Interest of Harris, the juvenile courts were prohibited from basing a finding of nonamenability to juvenile treatment solely upon heresay evidence.[14] This case also held that indigent children have the right to appointed counsel in appeals from waiver orders entered at the juvenile court level. According to the court, the waiver hearing is a quasi-criminal event.

The equal protection issue again emerged in State v. Lewis.[15] One youth was waived to adult trial, while two other youth, implicated for the same offenses, were retained in the juvenile system. This preference was held not to constitute a violation of the equal protection clause. The court also held that the waiver ordered in this instance was supported by substantial evidence, since the involved youth had a history of trouble with the law, was sociopathic, and since the various institutions considered by witnesses were ruled out as inappropriate.

In State v. Young, the court held constitutional a statute which gave jurisdiction to the adult session of the district courts to try as an adult a juvenile who had previously been adjudicated a delinquent child, who was not amenable to treatment, and to whom an order was entered waiving the jurisdiction of the juvenile session.[16]

CORRECTIONS INFORMATION

All corrections services for adults are handled by the Department of Corrections. Juvenile institutions and parole services are administered by the Department of Social and Rehabilitation Services, under its Division of Mental Health and Retardation and Division of Children and Youth, respectively.

Youth under 18 years of age who have been adjudged delinquent, miscreant, wayward, or truant may be committed to the Department of Social and Rehabilitation Services. Commitments are indeterminate and may extend to age 21. If a juvenile repeatedly escapes from a juvenile institution or is incorrigible within the institution, he or she may be tried as an adult. Following transfer from juvenile jurisdiction and commitment to the Department of Corrections, placement in an adult institution is possible after a guilty finding.

Male and female felony offenders, age 18 and older, or 16- and 17-year-olds who are convicted in criminal court can be committed to the Department of Corrections if incarceration is the sentence. According to state officials, juveniles tried as adults cannot be placed in a juvenile institution or administratively transferred to a juvenile institution.

STATE DATA SUMMARY

Juveniles in Kansas may appear in adult court in several ways. First, individuals 16 years of age or older charged with any violation of the criminal statute may be judicially transferred after a hearing in juvenile court. At the discretion of the court, the waiver order may state that subsequent offenses shall be prosecuted in adult court. Juveniles charged with some offenses while committed to state institutions may be excluded from juvenile court jurisdiction and be sent directly to adult court for trial. Minor juvenile traffic offenses are tried routinely in adult court.

Table 17-1A reflects the number of youth judicially waived for adult prosecution as reported by the Annual Report on the Courts of Kansas. A total of 60 cases were reported in 1978, for a rate of 1.557 per 10,000 juveniles. Twenty-seven of the cases were in the three most populous counties (Johnson, Sedgwick, and Wyandotte).

TABLE 17-1A. KANSAS: REFERRALS OF JUVENILES TO ADULT COURTS IN 1978 (BY COUNTY, RATE, AND LEGAL MECHANISM) REPORTED BY STATE SOURCES

County	Juvenile Population (Age 8-17)[a]	Judicial Waiver	
		Cases	Rate[b]
Allen	2,290	0	0.000
Anderson	1,482	0	0.000
Atchison	3,235	1	3.091
Barber	1,075	0	0.000
Barton	5,653	0	0.000
Bourbon	2,202	0	0.000
Brown	1,659	0	0.000
Butler	7,103	0	0.000
Chase	576	0	0.000
Chautauqua	605	0	0.000
Cherokee	3,562	0	0.000
Cheyenne	698	0	0.000
Clark	435	0	0.000
Clay	1,382	0	0.000
Cloud	1,993	0	0.000

TABLE 17-1A. (Continued)

County	Juvenile Population (Ages 8-17)[a]	Judicial Waiver	
		Cases	Rate[b]
Coffey	1,194	0	0.000
Comanche	406	0	0.000
Cowley	5,211	1	1.919
Crawford	4,995	0	0.000
Decatur	708	0	0.000
Dickinson	3,254	0	0.000
Doniphan	1,536	0	0.000
Douglas	8,297	3	3.616
Edwards	701	0	0.000
Elk	467	0	0.000
Ellis	4,289	1	2.332
Ellsworth	899	0	0.000
Finney	4,681	0	0.000
Ford	4,270	2	4.684
Franklin	3,517	0	0.000
Geary	4,137	0	0.000
Gove	869	0	0.000
Graham	820	0	0.000
Grant	1,395	0	0.000
Gray	859	0	0.000
Greeley	326	0	0.000
Greenwood	1,187	0	0.000
Hamilton	465	0	0.000
Harper	1,021	0	0.000
Harvey	4,857	1	2.059
Haskell	801	0	0.000
Hodgeman	428	0	0.000
Jackson	2,058	0	0.000
Jefferson	2,532	0	0.000
Jewell	868	0	0.000
Johnson	45,630	2	0.438
Kearney	671	0	0.000
Kingman	1,587	0	0.000
Kiowa	556	0	0.000
Labette	4,360	1	2.294

TABLE 17-1A. (Continued)

County	Juvenile Population (Ages 8-17)[a]	Judicial Waiver Cases	Judicial Waiver Rate[b]
Lane	414	0	0.000
Leavenworth	10,091	0	0.000
Lincoln	672	3	44.643
Linn	1,116	0	0.000
Logan	690	0	0.000
Lyon	4,371	3	6.863
McPherson	4,116	0	0.000
Marion	2,145	0	0.000
Marshall	2,199	0	0.000
Meade	827	0	0.000
Miami	3,583	0	0.000
Mitchell	1,264	0	0.000
Montgomery	6,116	6	9.810
Morris	969	0	0.000
Morton	698	0	0.000
Nemaha	2,244	1	4.456
Neosho	3,029	3	9.904
Ness	820	1	12.195
Norton	1,058	0	0.000
Osage	2,491	0	0.000
Osborne	849	0	0.000
Ottawa	995	0	0.000
Pawnee	1,193	0	0.000
Phillips	1,401	0	0.000
Pottawatomie	2,190	0	0.000
Pratt	1,519	0	0.000
Rawlins	825	0	0.000
Reno	10,508	2	1.903
Republic	1,187	0	0.000
Rice	1,767	0	0.000
Riley	7,167	1	1.395
Rooks	1,226	0	0.000
Rush	749	0	0.000
Russell	1,510	0	0.000
Saline	9,715	1	1.029

TABLE 17-1A. (Continued)

County	Juvenile Population (Ages 8-17)[a]	Judicial Waiver Cases	Judicial Waiver Rate[b]
Scott	1,105	0	0.000
Sedgwick	60,585	17	2.806
Seward	2,985	1	3.350
Shawnee	25,788	0	0.000
Sheridan	687	0	0.000
Sherman	1,535	0	0.000
Smith	989	0	0.000
Stafford	897	0	0.000
Stanton	549	0	0.000
Stevens	816	0	0.000
Sumner	4,007	0	0.000
Thomas	1,391	0	0.000
Trego	742	0	0.000
Wabaunsee	1,089	0	0.000
Wallace	459	0	0.000
Washington	1,317	0	0.000
Wichita	758	1	13.193
Wilson	1,762	0	0.000
Woodson	618	0	0.000
Wyandotte	31,764	8	2.519
Total	385,359	60	1.557

a. 1978 population estimates were developed by the National Center for Juvenile Justice using data from two sources: the 1970 national census and the National Cancer Institute 1975 estimated aggregate census.

b. Rate per 10,000 juveniles eight to 17 years old (1978).

Table 17-1B provides locally reported incidence reports on youth in adult courts that were received in the 11 Phase II counties. Represented in the table are judicial waivers, exclusions to adult court for offenses committed by youth while institutionalized, and hearings in adult courts because of a previous and final waiver of juvenile court jurisdiction.

Sedgwick County was the only one included for local survey which did not provide data to the survey. The state reports 17 judicial waivers to have occurred there in the July 1, 1977 to June 30, 1978 reporting period. Differences in reports where data was provided by both sources neither favor over or under reporting for either source, with counties reporting both larger and smaller frequency of waiver than in the courts' annual report. The largest of these differences occurred in Wyandotte County which reported 28 waivers, compared to eight reported by the state. Differences between remaining counties and state data did not exceed plus or minus four waivers.

Only one county, Saline, reported a youth being tried in adult court for offenses being committed while institutionalized.

Finally, three counties reported youth tried in adult court subsequent to previous and final waivers of juvenile court jurisdiction. Shawnee County by far reported the largest number of such trials, with a total of 21, and is somewhat of an anomaly in this regard. Montgomery and Reno Counties reported one and five youth tried in adult court under this provision, respectively.

TABLE 17-1B. KANSAS: REFERRALS OF JUVENILES TO ADULT COURTS IN 1978 (BY COUNTY, RATE, AND LEGAL MECHANISM) REPORTED BY LOCAL SOURCES IN PHASE II COUNTIES

County	Juvenile Population (Ages 8-17)[a]	Judicial Waiver		Excluded Offenses		Once Waived Always Waived	
		Cases	Rate[b]	Cases	Rate[b]	Cases	Rate[b]
Butler	7,103	3 est	4.224	0	0.000	0	0.000
Douglas	8,297	1	1.205	0	0.000	0	0.000
Johnson	45,630	5	1.096	0	0.000	0	0.000
Leavenworth	10,091	0	0.000	0	0.000	0	0.000
Montgomery	6,116	2	3.270	0	0.000	1	1.635
Reno	10,508	5 est	4.758	0 est	0.000	5 est	4.758
Riley	7,167	1	1.395	0 est	0.000	0	0.000
Saline	9,715	5	5.147	0	0.000	1	1.029
Sedgwick	60,585	*		*		*	
Shawnee	25,788	3	1.163	1	0.388	21	8.143

TABLE 17-1B. (Continued)

County	Juvenile Population (Ages 8-17)[a]	Judicial Waiver Cases	Judicial Waiver Rate[b]	Excluded Offenses Cases	Excluded Offenses Rate[b]	Once Waived Always Waived Cases	Once Waived Always Waived Rate[b]
Wyandotte	31,764	28	8.815	0	0.000	*	
Total	222,764	53 est	2.379	1 est	0.044	28 est	1.257

* denotes Not Available.

a. 1978 population estimates were developed by the National Center for Juvenile Justice using data from two sources: the 1970 national census and the National Cancer Institute 1975 estimated aggregate census.

b. Rate per 10,000 juveniles eight to 17 years old (1978).

Table 17-2 gives a demographic breakdown (by age, sex, and race) of the judicial waiver cases for adult prosecution in Phase II counties. Of the known cases, all youth waived were either 16 or 17 years old, with 17-year-olds representing 55 percent (29) and 16-year-olds 45 percent (24). Ninety-eight percent were males. White and minority youth represented 84 percent (21) and 16 percent (four), respectively.

Table 17-3 gives a breakdown of judicial waiver cases, by offense categories in Phase II counties. Known offenses were fairly evenly divided between personal and property offenses. Personal offenses, which included murder, manslaughter, rape, robbery, assault and battery, aggravated assault, and other personal offenses, including arson, represented 52 percent (13). Property offenses, which included burglary and other property, as well as auto thefts, represented 48 percent (12). (See also Figure 17-1.)

Figure 17-1 displays offense categories by the percentage they constitute of all Phase II waivers, including personal, property, public order, and other general offenses. With 64 percent of offenses unknown, personal and property offenses were most frequent with 19 and 17 percent of all charges, respectively.

TABLE 17-2. KANSAS: JUDICIAL WAIVERS TO ADULT COURTS IN REPORTING PHASE II COUNTIES (BY COUNTY, AGE, SEX, AND RACE) IN 1978

County	Total Waivers	Age			Sex			Race		
		16	17	Unknown	Male	Female	Unknown	White	Minority	Unknown
Butler	3	1	2	0	2	1	0	3 est	0	0
Douglas	1	1	0	0	1	0	0	0	1	0
Johnson	5	5 est	0	0	5	0	0	5 est	0	0
Leavenworth	0	0	0	0	0	0	0	0	0	0
Montgomery	2	0	2	0	2	0	0	2	0	0
Reno	5	1 est	4 est	0	4 est	*	1	3 est	2 est	0
Riley	1	1	0	0	1	0	0	1	0	0
Saline	5	0	5 est	0	5	0	0	3 est	2 est	0
Sedgwick	*	*	*	*	*	*	*	*	*	*
Shawnee	3	1	2	0	3	0	0	2	1	0
Wyandotte	28	14	14	0	28	0	0	*	*	28
State Phase II Total	53	24	29	0	51	1	1	21	4	28

* denotes Not Available.

TABLE 17-3. KANSAS: JUDICIAL WAIVERS TO ADULT COURTS IN REPORTING PHASE II COUNTIES (BY COUNTY AND TYPES OF OFFENSES) IN 1978

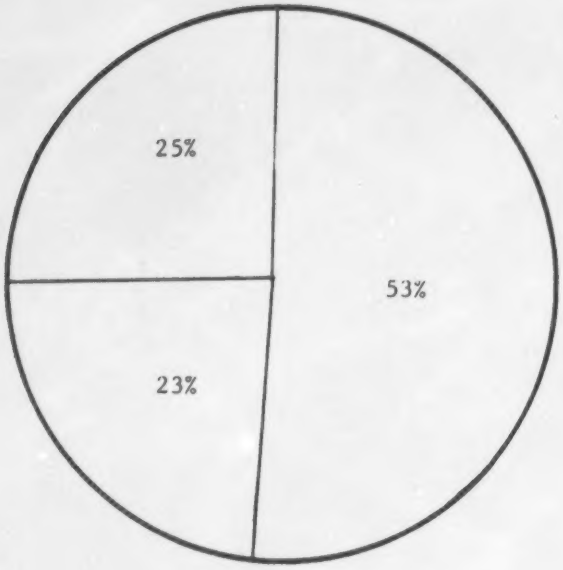
County[b]	Total Waivers	Offenses[a]										
		Murder/ Manslaughter	Rape	Robbery	Assault/ Battery	Aggravated Assault	Other Personal	Burglary	Other Property	Public Order	Other General	Unknown
Butler	3	0	0	0	0	0	1	2	0	0	0	0
Douglas	1	0	1	0	0	0	0	0	0	0	0	0
Johnson	5	0	1 est	2 est	1 est	0	0	1	0	0	0	0
Montgomery	2	1	0	1	0	0	0	0	0	0	0	0
Reno	5	0	0	0	1 est	1 est	0	3 est	0	0	0	0
Riley	1	0	0	0	0	1	0	0	0	0	0	0
Saline	5	0	0	0	0	0	1	2	2	0	0	0
Shawnee	3	0	0	1	0	0	0	1	1	0	0	0
Wyandotte	28	*	*	*	*	*	*	*	*	*	*	28
State Phase II Total	53	1	2	4	2	2	2	9	3	0	0	28

* denotes Not Available.

a. Only most serious offense per individual listed.

b. Data were not available in Sedgwick County.

FIGURE 17-1. KANSAS: PERCENTAGE OF JUDICIAL WAIVERS TO ADULT COURTS IN REPORTING PHASE II COUNTIES (BY OFFENSE CATEGORY) IN 1978



Offenses[a]

Personal	25%
Property	23%
Public Order	0%
Other General	0%
Unknown	53%

N= 53

a. Violent offenses (murder/manslaughter, rape, robbery, and aggravated assault) represent 17 percent of all offenses in the reporting Phase II counties.

Table 17-4 gives the dispositions of youth judicially waived in Phase II counties. All were found guilty, when judgments were known.

TABLE 17-4. KANSAS: JUDICIAL WAIVERS TO ADULT COURTS IN REPORTING PHASE II COUNTIES (BY COUNTY AND BY JUDGMENTS IN ADULT COURTS) IN 1978

County	Total Waivers	Judgments				
		Not Guilty	Dismissed	Guilty	Other	Unknown
Butler	3	0	0	3	0	0
Douglas	1	0	0	1	0	0
Johnson	5	0	0	5 est	0	0
Montgomery	2	0	0	2	0	0
Reno	5	0	0	5 est	0	0
Riley	1	0	0	1 est	0	0
Saline	5	0	0	5 est	0	0
Shawnee	3	0	0	3 est	0	0
Wyandotte	28	*	*	*	*	28
State Phase II Total	53	0	0	25	0	28

* denotes Not Available.

Table 17-5 gives the types of sentences imposed on convicted youth in Phase II counties. Fifteen (60 percent) were placed on probation, while the remaining ten (40 percent) were sentenced to state adult corrections institutions.

Table 17-6 gives the lengths of incarceration ordered for the ten youths in Phase II counties who were sentenced to incarceration. Five youths received maximum sentences of more than five and up to ten years, three received maximum sentences of over ten years, and the remaining two (20 percent) received sentences of more than three and up to five years.

TABLE 17-5. KANSAS: SENTENCES REPORTED FOR CONVICTIONS ARISING FROM JUDICIAL WAIVER TO ADULT COURT IN REPORTING PHASE II COUNTIES (BY COUNTY AND SENTENCE TYPE) IN 1978

County	Total Convictions	Sentence Types				
		Fined	Probation	Jail	State Adult Corrections Facilities	Other
Butler	3	0	0	0	3	0
Douglas	1	0	0	0	1	0
Johnson	5	0	4 est	0	1	0
Montgomery	2	0	0	0	2	0
Reno	5	0	4 est	0	1 est	0
Riley	1	0	1	0	0	0
Saline	5	0	4	0	1	0
Shawnee	3	0	2	0	1	0
State Phase II Total	25	0	15	0	10	0

TABLE 17-6. KANSAS: LENGTH OF CONFINEMENT REPORTED FOR SENTENCES ARISING FROM JUDICIAL WAIVER TO ADULT COURTS IN REPORTING PHASE II COUNTIES (BY COUNTY AND MAXIMUM SENTENCE) IN 1978

County	Total Confinements	Sentence Maximums							
		One Year or Less	One+ to 3 Years	3+ to 5 Years	5+ to 10 Years	Over 10 Years	Indeterminate	Life	Death
Butler	3	0	0	0	2 est	1 est	0	0	0
Douglas	1	0	0	0	1	0	0	0	0
Johnson	1	0	0	0	1	0	0	0	0
Montgomery	2	0	0	0	1	1	0	0	0
Reno	1	0	0	1 est	0	0	0	0	0
Saline	1	0	0	1	0	0	0	0	0
Shawnee	1	0	0	0	0	1	0	0	0
State Phase II Total	10	0	0	2	5	3	0	0	0

Table 17-7 provides a summary of the number of cases reported in the preceding tables concerning total judicial waivers to adult courts as reported by local sources; the number of counties selected for Phase II investigation; and the findings concerning the conviction and confinement of youth judicially waived to adult courts in the Phase II counties. Only 53 cases were investigated through Phase II data collection in 11 counties. Among these youth, 25 were known to have been convicted, at least ten of which were confined in adult corrections facilities. The remaining 15 cases of those which were known to have been convicted were placed on probation by adult courts.

TABLE 17-7. KANSAS: SUMMARY OF TABLES (BY LEGAL MECHANISM) AS REPORTED BY LOCAL SOURCES

	Judicial Waiver
Total Referrals to Adult Courts in 1978	*
Total Referrals Selected for Phase II (Table 17-2)	53
Total Referrals Resulting in Convictions (Table 17-5)	25
Total Convictions Resulting in Sentences of Confinement (Table 17-7)	10

* denotes Not Available.

In summary, state sources reported 60 cases were judicially waived from juvenile to adult jurisdiction in Kansas in 1978. This yields a waiver rate of 2.26 per 10,000 juvenile population. Forty-five percent of these came from the three most populous counties in the state. A local survey of 11 Phase II counties resulted in the report of 53 judicial waiver cases for those counties only. Fifty-five percent of the waived cases from these Phase II counties were age 17 and 45 percent were age 16; 98 percent were males. Where race data were available, white youth outnumbered minority youth by a ratio of about five to one. About one-half of the known offenses were personal offenses; the remainder being property offenses. At least 25 of the waived youth in Phase II counties were found guilty when judgment was known. Sixty percent were placed on probation while 40 percent were sentenced to state adult corrections institutions. One-half of the youth

incarcerated received maximum sentences of over five to ten years. Twenty percent received maximum sentences of over three to five years, while 30 percent received maximum sentences of over ten years.

ROUTINELY HANDLED TRAFFIC OFFENSES

When juveniles 14 years of age or older violated a Kansas traffic ordinance prior to July 1, 1978, they came under the authority of adult courts. As of that date juveniles under 16 years of age are handled in juvenile courts for routine traffic violations. Traffic violations by 16 and 17 year olds are still tried in adult courts along with adult violations. They are generally handled by a fine payable to the clerk of courts.

This section presents estimated information on the number of those juveniles arrested for routine traffic offenses in the eleven counties that were surveyed for this information. Table 17-8 indicates that a total of 12,410 youth were arrested for traffic offenses and subject to adult court jurisdiction in these counties. Johnson, Douglas, and Leavenworth Counties account for 84 percent of all reported traffic arrests.

TABLE 17-8. KANSAS: JUVENILE REFERRALS TO ADULT COURTS FOR EXCLUDED TRAFFIC OFFENSES (BY COUNTY, JUVENILE POPULATION, AND FREQUENCY OF OFFENSES) IN 1978

County	Juvenile Population (Ages 8-17)[a]	Number of Excluded Traffic Offenses
Butler	7,103	87 est
Douglas	8,297	3,784 est
Johnson	45,630	5,451 est
Leavenworth	10,091	1,160 est
Montgomery	6,116	88 est
Reno	10,508	107 est
Riley	7,167	616 est
Saline	9,715	435 est

TABLE 17-8. (Continued)

County	Juvenile Population (Ages 8-17)[a]	Number of Excluded Traffic Offenses
Scott	1,105	84 est
Shawnee	25,788	442
Wyandotte	31,764	156
Total	163,284	12,410 est

a. 1978 population estimates were developed by the National Center for Juvenile Justice using data from two sources: the 1970 national censes and the National Cancer Institute 1975 estimated aggregate census.

FOOTNOTES

1. Kansas Statutes Annotated, Section 38-802(b).
2. Kansas Statutes Annotated, Section 38-808.
3. Kansas Statutes Annotated, Section 38-808(b).
4. Kansas Statutes Annotated, Section 38-808.
5. Kansas Statutes Annotated, Section 38-808(c).
6. Kansas Statutes Annotated, Section 38-802.
7. Kent v. United States, 383 U.S. 541 (1966).
8. State v. Owens, 416 P.2d 259; 197 Kan. 212 (1966).
9. Templeton v. State 447 P.2d 158; 202 Kan. 89 (1968).
10. Long v. State 448 P.2d 25; 202 Kan. 216 (1968).
11. In re Patterson 400 P.2d 1131; 210 Kan. 245 (1972).
12. State v. Shepard 516 P.2d 945, 213 Kan. 498 (1973).
13. State v. Green 544 P.2d 345; 218 Kan. 438 (1975).
14. In Interest of Harris 544 P.2d 1403; 218 Kan. 625 (1976).
15. State v. Lewis 556 P.2d 888; 220 Kan. 791 (1976).
16. State v. Young 552 P.2d 905; 220 Kan. 541 (1976).

LOUISIANA PROFILE

ACKNOWLEDGMENTS

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METHODOLOGY

Data collection was conducted by Cindy Seghers, Consultant, and began with telephone interviews with the clerk of the district court in each parish. In parishes where complete data were not available from the clerk's office, a second contact was made with the district attorney's office. Because of the variations of the Louisiana statutes from those of other states, it was necessary to make additional calls to clerks of the city, municipal, and parish courts in order to secure all desired data on individuals under the age of 18. Phase I data were generally available for judicial transfers of youth under 17 years of age and for youth charged with murder and aggravated rape excluded from juvenile court jurisdiction.

Phase II data on age, sex, race, offenses, dispositions, and sentences of youth judicially transferred were sought from the most populous ten percent of the parishes and those parishes with five or more waivers. Little information was available from these parishes for juveniles tried in adult courts due to judicial transfer or excluded offenses.

Data were also sought about felonies, misdemeanors and traffic violations against 17 year olds routinely handled in adult courts. These data were generally unavailable from court sources. Phase I and some Phase II data (age, sex, and offenses) on 17 year olds arrested for felonies and misdemeanors were, therefore, obtained by the Louisiana Commission on Law Enforcement, and are displayed in this profile. This supplied information was not systematically verified by the Academy. It was estimated by the Commission that 94 percent of the youth arrests resulted in court filing in Louisiana. The arrest data contained some traffic offenses. Because only 14 parishes could report estimated traffic data and some traffic data were included in the arrest data, the limited data available from the parishes are not reported in this profile in an effort to avoid duplication.

COURT ORGANIZATION

The Louisiana district courts are the highest courts of general jurisdiction in the state. There are 38 judicial districts in Louisiana, with 65 district court locations, at least one in each parish. There is a complex court system with criminal (and, in some cases, juvenile) jurisdiction in the state. The district courts have jurisdiction over all criminal cases, including the Orleans Parish District Court holding exclusive jurisdiction over all criminal cases within that parish. There are three parish courts in Louisiana and 48 city courts having concurrent criminal jurisdiction with the district courts except for offenses punishable by imprisonment at hard labor.

Similarly, there are several courts in Louisiana which exercise juvenile jurisdiction. The district, parish, and city courts have juvenile jurisdiction in parishes where separate juvenile courts have not been established. These courts will be referred to as juvenile courts in a generic sense throughout this profile. There are four courts at the parish level which exercise exclusive juvenile jurisdiction: Caddo Parish Juvenile Court, Jefferson Parish Juvenile Court, Orleans Parish Juvenile Court, and East Baton Rouge Parish Family Court. In all other parishes of the state, district courts, parish courts, and city courts exercise "concurrent" juvenile jurisdiction within the range of their venue.[1] For example, the 21st judicial district court has jurisdiction over any delinquent youth, child in need of supervision, or child in need of care residing in Livingston, St. Helena, or Tangipahoa Parishes. However, a child residing in Hammond (Tangipahoa Parish) or Denham Springs (Livingston Parish) may be taken to either the district court or the appropriate city court.

City and parish courts have concurrent venue with district courts over lesser offenses in locations without juvenile courts. The Code of Juvenile

Procedure allows lesser juvenile traffic cases to be heard in courts exercising juvenile jurisdiction. In some jurisdictions, juvenile referees hear those cases that do not carry jail sentences.

An overview of Louisiana's courts by their jurisdiction over juveniles appears below.

LOUISIANA: COURT JURISDICTION OVER JUVENILES IN 1978

General Juvenile Jurisdiction	Jurisdiction over Transferred Juveniles	Juvenile Traffic[a]
Juvenile Divisions of District Courts Parish Courts City Courts Separate Juvenile and Family Courts--4 parishes	Adult Divisions of District Courts	Juvenile Divisions of District Courts Parish Courts City Courts Separate Juvenile and Family Courts

a. Traffic offenses may be heard in any court exercising juvenile jurisdiction.

TRANSFER PROCESS

The initial age of juvenile court jurisdiction in Louisiana extends to age 17.[2] There were several ways by which youth under 18 years old could be tried in adult courts in 1978.

Judicial Waiver

In Louisiana, juveniles could be transferred to adult courts in 1978 after a hearing in juvenile courts if they were 15 years of age or older with a previous delinquency adjudication by commission of a serious offense and charged with another crime or public offense.[3] Serious offenses are considered to be second degree murder, manslaughter, negligent homicide,

rape, armed robbery, aggravated battery, aggravated burglary, aggravated arson and aggravated kidnapping in this context.

In addition, juveniles 15 years of age or older charged with armed robbery or a crime punishable by life imprisonment can be transferred to criminal court without a previous adjudication of delinquency.

The transfer process may begin upon a motion of the district attorney, the court's own motion, or the defendant's request.[4] Juveniles must have a hearing in juvenile court prior to the completion of the transfer, and the court must find reasonable grounds to believe the youth not amenable to treatment or rehabilitation through facilities available to the juvenile court. Upon culmination of the transfer, the jurisdiction of the juvenile court is terminated for that particular case and a criminal case is filed.

Changes in the judicial waiver law were made in 1980 and are discussed along with excluded offenses provision changes.

Excluded Offenses

Youth 15 years of age or older charged with a capital crime or a crime defined by law as attempted aggravated rape or armed robbery are excluded from juvenile jurisdiction. Once youth are charged in criminal courts, those courts retain jurisdiction, even though the youth plead guilty to, or are convicted of, a lesser, included offense. A plea to, or conviction of, a lesser included offense does not revest the juvenile courts with jurisdiction of the youth.[5]

Effective January 1, 1979, the Louisiana transfer provision was amended to read:

> Notwithstanding any provision of law to the contrary when an offender 15 years of age or older is charged with armed robbery or a crime punishable by life imprisonment, and a petition is filed in the juvenile court requesting the transfer of the offender to a district court of general criminal jurisdiction ...should the juvenile court approve the petition for transfer, the juvenile court shall order such transfer without a previous adjudication of delinquency...[6]

This amendment says 15 year olds charged with first or second degree murder, manslaughter, aggravated rape, armed robbery, aggravated burglary, or aggravated kidnapping could be transferred to criminal court if the juvenile courts find that probable cause exists that the child committed the offense. This provision was declared unconstitutional by the Louisiana Supreme Court and the referral provision reverted back to the provision in effect in 1978.[7] (See Case Law section.)

Therefore, both the "excluded offense" provision and the judicial waiver were replaced in 1980 to read: Youth 15 years of age or older charged with first degree murder, second degree murder, manslaughter, aggravated rape,

and youth 16 years of age or older charged with having committed armed robbery, aggravated burglary, or aggravated kidnapping are excluded from juvenile jurisdiction.[8]

Further, youth 15 years of age or older charged with armed robbery, aggravated burglary, or aggravated kidnapping may be transferred to criminal courts after a probable cause hearing and a determination by the courts that there is no substantial opportunity for rehabilitation through facilities available to the juvenile court. The courts must consider:

(1) The chronological age of the child.

(2) The maturity of the child, both mental and physical.

(3) Whether the child has committed other serious felonies.

(4) Past conduct of the child indicates the child is not amenable to treatment or rehabilitation.

(5) Such other criteria as the court deems relevant.[9]

Some additional due process rights, such as a child shall not be required to be a witness against himself in a transfer hearing, have been codified as well, since 1978.

Lower Age of Criminal Jurisdiction

Youth 17 years old are routinely handled as adults in Louisiana. These persons are subject to the same court procedures and dispositional alternatives as persons 18 years old or older, and are discussed in a separate section of the data summary which appears later in this profile.

CASE LAW SUMMARY

The Louisiana Supreme Court since 1950 has, on numerous occasions, resolved issues concerning the jurisdictional scope of juvenile courts and adult divisions of district courts. In State v. Sheppard, the defendant argued, in a motion for directed verdict of acquittal, that the state had failed to prove that he was over 17 years of age.[10] The court, in affirming the denial of the motion, held that not only was the defendant's objection irrelevant to the issue of guilt or innocence, but also that he had given his age as 19 at the sentencing. Therefore, the court held that the district court had jurisdiction to try the defendant as an adult. The Louisiana Constitution and Code provide that an

individual who is 15 years of age or older and charged with a capital offense is excluded from the jurisdiction of juvenile court.[11] In State ex rel Moore v. Warden of Louisiana St. Pen., the court held that the adult division of district courts does not have jurisdiction over an individual who enters a plea of guilty to second degree murder, since it is not a capital offense.[12] The case should have been transferred to juvenile court. Further, the court has held, in State v. Whatley, that even though the decision of the U.S. Supreme Court in Furman v. Georgia precluded the imposition of the death penalty under Louisiana's then-existing law, the legislative classification of "capital" offenses was still valid.[13] (See also State v. Smith and State v. Moore.[14]) Finally, in State v. Dubois, the Louisiana Supreme Court held that juvenile courts have jurisdiction over 16-year-olds even if they have been emancipated by virtue of marriage.[15]

The constitutionality of Louisiana's transfer statute was challenged in State v. Everfield and State v. Hall.[16] In Everfield, the court held that the transfer statute did not represent an improper delegation of legislative power to the juvenile courts, nor did it violate the equal protection clause or the due process requirements set forth in Kent v. United States.[17] Further, in Hall, the court held that since the transfer hearing was not adjudicatory in nature, there was no double jeopardy violation as a result of the subsequent criminal prosecution.

The court, in State in the Interest of Smith, held that the evidence presented did not support a finding of nonamenability, since the record failed to disclose a consideration of the techniques, programs, personnel, and facilities which were available to the juvenile court.[18] In addition, the court found the past treatment (one-half hour of counseling per month) insufficient evidence upon which to find the defendant nonamenable to treatment as a juvenile.

In State in the Interest of Dino, the constitutional privilege against self-incrimination and the rights to counsel and confrontation were held applicable to juvenile court proceedings.[19] However, even though the court held that a juvenile had a right to a public trial, the court refused to hold that there existed the right to a jury trial of a delinquency charge. The decision of State ex rel. Coco reaffirmed the holdings of Dino.[20] In addition, the court held that the decision of the U.S. Supreme Court in Coker v. Georgia, which held the death penalty for rape unconstitutional, did not invalidate the exclusion of aggravated rape from juvenile court jurisdiction since Louisiana has a specific constitutional and statutory exclusion of attempted aggravated rape which also includes the crime of aggravated rape.[21]

In 1980 the Louisiana Supreme Court, in State in the Interest of Erin A. Hunter, found that the transfer act #460 (enacted in 1978--see Transfer Process section) was (1) void because of vagueness, because it left juvenile court judges free to cause forfeiture of important rights without any fixed legal standards and provided accused juveniles no protection against arbitrary or discriminatory action; (2) violated the state constitutional provision that a juvenile court could waive special juvenile procedures and order that adult procedures would apply; and (3) juvenile transfer proceedings would be governed by the prior statute.[22]

CORRECTIONS INFORMATION

The Department of Corrections is responsible for both adult and juvenile institutions in Louisiana.

Juveniles under 17 years of age and adjudicated delinquent for the commission of an offense which would have been a felony if committed by an adult may be committed to the Department of Corrections for an indefinite period of time. The judgment cannot remain in force for a period exceeding the maximum term of imprisonment for the offense forming the basis for the adjudication or past the youths' 21st birthday, whichever occurs first.

Youth tried as juveniles can be committed only to a juvenile training institute operated by the Department of Corrections. Younger youth and first offenders are generally housed at the Louisiana Correctional and Industrial School. There is no strict classification by age.

Youth in adult courts convicted of a felony and sentenced to hard labor or convicted of a capital crime or a crime punishable by life imprisonment must be committed to the Department of Corrections.

Youth tried as adults may not be placed or administratively transferred to juvenile institutions. Juveniles tried as juveniles may not be committed to adult facilities or administratively transferred to adult corrections institutions.

STATE DATA SUMMARY

There are three major mechanisms by which juveniles may be tried in adult courts in Louisiana. The first is through judicial transfer following a hearing in juvenile court. The second is through the commission of certain offenses which are excluded from juvenile jurisdiction. Third, 17 year olds are routinely tried in adult courts due to the maximum age of juvenile jurisdiction.

Table 19-1 shows, by parish, the number of juveniles in adult courts in Louisiana in 1978, the estimated juvenile population and the rate of transfer per 10,000 youth. There were nine juveniles judicially transferred to adult courts in 1978, based on available data. It should be noted that Orleans Parish, the most populated parish in the state, could not report, along with Lincoln Parish. Only seven parishes (11 percent) reported transfers; no parish reported more than two.

TABLE 19-1. LOUISIANA: REFERRALS OF JUVENILES TO ADULT COURTS IN 1978 (BY PARISH, RATE, AND LEGAL MECHANISMS)

Parish	Juvenile Population (Ages 8-17)[a]	Judicial Waiver		Excluded Offenses		Age of Jurisdiction	
		Cases	Rate[b]	Cases	Rate[b]	Cases[c]	Rate[b]
Acadia	11,343	0	0.000	0	0.000	43	37.909
Allen	4,233	0	0.000	0	0.000	21	49.610
Ascension	9,435	0	0.000	0	0.000	62	65.713
Assumption	4,795	0	0.000	0	0.000	1	2.086
Avoyelles	8,008	0	0.000	0	0.000	100	124.875
Beauregard	4,947	0	0.000	0	0.000	28	56.600
Bienville	3,202	0	0.000	0	0.000	18	56.215
Bossier	14,274	0	0.000	1	0.701	122	85.470
Caddo	44,443	0	0.000	0	0.000	407	91.578
Calcasieu	30,661	0	0.000	0	0.000	231	75.340
Caldwell	1,871	0	0.000	0	0.000	13	69.482
Cameron	1,998	0	0.000	0	0.000	0	0.000
Catahoula	2,328	0	0.000	0	0.000	38	163.230
Claiborne	3,040	0	0.000	0	0.000	20	65.789
Concordia	4,700	0	0.000	1	2.128	69	146.809
De Soto	4,212	0	0.000	0	0.000	20	47.483
East Baton Rouge	57,589	2	0.347	2	0.347	954	165.657
East Carroll	3,078	0	0.000	0	0.000	0	0.000
East Feliciana	2,913	0	0.000	0	0.000	9	30.896
Evangeline	7,104	0	0.000	0	0.000	61	85.867
Franklin	4,977	0	0.000	0	0.000	0	0.000
Grant	2,841	0	0.000	0	0.000	14	49.278
Iberia	13,848	0	0.000	0	0.000	8	5.777
Iberville	6,707	0	0.000	0	0.000	64	95.423
Jackson	2,867	0	0.000	0	0.000	22	76.735
Jefferson	79,337	0	0.000	2	0.252	1,089	137.263
Jefferson Davis	6,308	0	0.000	0	0.000	9	14.268
Lafayette	25,607	0	0.000	0	0.000	204	79.666
Lafourche	16,511	0	0.000	1	0.606	133	80.552
La Salle	2,608	1 est	3.834	0	0.000	6	23.006

TABLE 19-1. (Continued)

Parish	Juvenile Population (Ages 8-17)[a]	Judicial Waiver		Excluded Offenses		Age of Jurisdiction	
		Cases	Rate[b]	Cases	Rate[b]	Cases[c]	Rate[b]
Lincoln	5,365	*	*	*	*	38	70.829
Livingston	9,114	0	0.000	0	0.000	33	36.208
Madison	3,228	0	0.000	0	0.000	32	99.133
Morehouse	6,664	0	0.000	0	0.000	61	91.537
Natchitoches	6,377	0	0.000	0	0.000	45	70.566
Orleans	98,295	*	*	*	*	1,919	195.229
Ouachita	23,483	0	0.000	0	0.000	189	80.484
Plaquemines	5,463	1	1.830	0	0.000	0	0.000
Pointe Coupee	4,885	0	0.000	0	0.000	6	12.282
Rapides	23,520	1	0.425	0	0.000	290	123.299
Red River	1,669	0	0.000	0	0.000	2	11.983
Richland	4,497	0	0.000	0	0.000	7	15.566
Sabine	3,746	0	0.000	0	0.000	28	74.746
St. Bernard	11,408	0	0.000	0	0.000	88	77.139
St. Charles	7,384	0	0.000	0	0.000	52	70.423
St. Helena	2,312	0	0.000	0	0.000	9	38.927
St. James	4,704	0	0.000	0	0.000	1	2.126
St. John the Baptist	6,185	0	0.000	0	0.000	50	80.841
St. Landry	18,064	0	0.000	1	0.554	123	68.091
St. Martin	7,959	0	0.000	0	0.000	35	43.975
St. Mary	14,013	0	0.000	1	0.714	114	81.353
St. Tammany	16,628	1	0.601	0	0.000	213	128.097
Tangipahoa	14,758	2 est	1.355	2	1.355	120	81.312
Tensas	1,815	0	0.000	0	0.000	1	5.510
Terrebonne	18,837	0	0.000	0	0.000	31	16.457
Union	3,521	0	0.000	0	0.000	33	93.723
Vermillion	9,391	0	0.000	0	0.000	14	14.908
Vernon	6,051	1	1.653	0	0.000	58	95.852
Washington	8,292	0	0.000	0	0.000	59	71.153
Webster	6,918	0	0.000	1	1.446	112	161.896

TABLE 19-1. (Continued)

Parish	Juvenile Population (Ages 8-17)[a]	Judicial Waiver Cases	Judicial Waiver Rate[b]	Excluded Offenses Cases	Excluded Offenses Rate[b]	Age of Jurisdiction Cases[c]	Age of Jurisdiction Rate[b]
West Baton Rouge	4,026	0	0.000	2 est	4.968	20	49.677
West Carroll	2,449	0	0.000	0	0.000	19	77.583
West Feliciana	989	0	0.000	0	0.000	7	70.779
Winn	2,952	0	0.000	0	0.000	7	23.713
State Phase II Total	750,747	9	0.120	14	0.186	7,582	100.993

* denotes Not Available.

a. 1978 population estimates were developed by the National Center for Juvenile Justice using data from two sources: the 1970 national census and the National Cancer Institute 1975 estimated aggregate census.

b. Rate per 10,000 juveniles eight to 17 years old (1978).

c. Arrest data provided by the Louisiana Commission on Law Enforcement. State sources estimated that the number of court filings approximates the number of arrests by 95 percent.

As shown in Table 19-1, there were 14 juveniles in adult courts due to excluded offense provisions, again with no parish having more than two, and two parishes, including Orleans, not reporting. Ten parishes (16 percent) recorded excluded offense cases.

There were 7,582 17 year olds arrested and subject to prosecution in adult courts due to the juvenile court's maximum age of jurisdiction. Only four parishes were reported to not have any 17 year olds subject to trial as adults. The six largest parishes (the most populous ten percent of the parishes) constituted 45 percent of the state's juvenile population but accounted for 63 percent of all arrests reported.

Phase II data were available from only one sampled parish regarding transferred juveniles and from only two sampled parishes regarding excluded offenses. It should be noted again that Orleans Parish data were not available and it contains the state's largest juvenile population. The available Phase II data will be presented, but generalizations cannot be drawn from such a limited sample. No information was available for dispositions, sentence types, and sentence durations for any of the transferred youth.

State sources were able to supply some Phase II data (age, sex, and offenses) about 17 year olds arrested due to age of jurisdiction for felonies and misdemeanors in all 64 parishes.

TABLE 19-2. LOUISIANA: RELATIONSHIP OF PHASE II COUNTIES TO ALL COUNTIES, BASED UPON 1978 POPULATION ESTIMATES AND DATA

	Juvenile Population (Ages 8-17)[a]	Number of Counties		Number of Referrals[b]	
		Judicial Waiver	Excluded Offenses	Judicial Waiver	Excluded Offenses
State	750,747	64	64	9	14
Selected for Phase II Investigation	333,845	6	6	3	4
Percentage of State Selected for Phase II Investigation	44%	9%	9%	33%	29%

a. 1978 population estimates were developed by the National Center for Juvenile Justice using data from two sources: the 1970 national census and the National Cancer Institute 1975 estimated aggregate census.

b. Orleans Parish data were not available for judicial waivers and excluded offenses.

JUDICIAL WAIVER

This section contains several tables and a brief discussion pertaining to the limited Phase II information on Louisiana youth judicially transferred during 1978. A sample of six parishes were contacted for this information, with Orleans Parish data being totally unavailable.

Table 19-3 gives a demographic breakdown of the two transferred youth from East Baton Rouge Parish. Both were 16 years old and males. One youth was white, the other a minority youth. The charges on the two transferred are presented in Table 19-4. The one charge under the "other personal" category was kidnapping, the other charge was robbery. Figure 19-1 graphically depicts this offense information by percentage, including the unknown offense in Rapides Parish.

TABLE 19-3. LOUISIANA: JUDICIAL WAIVERS TO ADULT COURTS IN PHASE II PARISHES (BY PARISH, AGE, SEX, AND RACE) IN 1978

Parish	Total Waivers	Age			Sex			Race		
		0-15	16	Unknown	Male	Female	Unknown	White	Minority	Unknown
Caddo	0	0	0	0	0	0	0	0	0	0
Calcasieu	0	0	0	0	0	0	0	0	0	0
East Baton Rouge	2	0	2	0	2	0	0	1	1	0
Jefferson	0	0	0	0	0	0	0	0	0	0
Orleans	*	*	*	*	*	*	*	*	*	*
Rapides	1	*	*	1	*	*	1	*	*	1
State Phase II Total	3	0	2	1	2	0	1	1	1	1

* denotes Not Available.

TABLE: 19-4. LOUISIANA: JUDICIAL WAIVERS TO ADULT COURTS IN REPORTING PHASE II PARISHES (BY PARISH AND BY TYPES OF OFFENSES) IN 1978

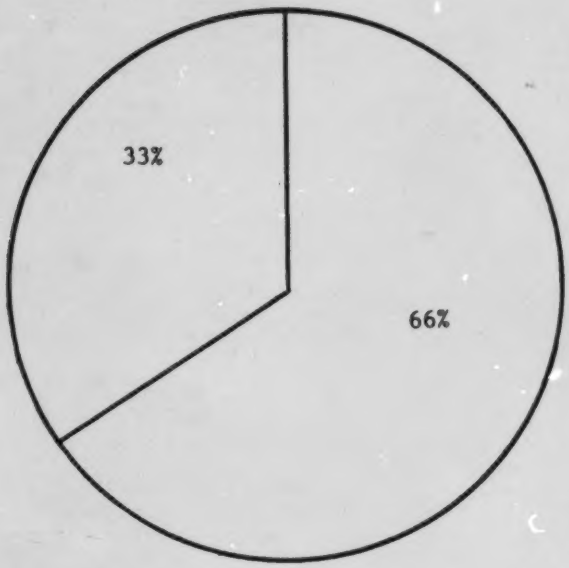
Parish[b]	Total Waivers	Offenses[a]										
		Murder/ Manslaughter	Rape	Robbery	Assault/ Battery	Aggravated Assault	Other Personal	Burglary	Other Property	Public Order	Other General	Unknown
East Baton Rouge	2	0	0	1	0	0	1	0	0	0	0	0
Rapides	1	*	*	*	*	*	*	*	*	*	*	1
State Phase II Total	3	0	0	1	0	0	1	0	0	0	0	1

* denotes Not Available.

a. Only most serious offense per individual listed.

b. Orleans Parish data were unavailable.

FIGURE 19-1. LOUISIANA: PERCENTAGE OF JUDICIAL WAIVERS TO ADULT COURTS IN PHASE II PARISHES (BY OFFENSE CATEGORY) IN 1978



Offenses[a]	
Personal	66%
Property	0%
Public Order	0%
Other General	0%
Unknown	33%

N= 3

a. Violent offenses (murder/manslaughter, rape, robbery and aggravated assault) represent 33 percent of reported offenses in the Phase II parishes.

EXCLUDED OFFENSES

This section contains tables and a brief discussion pertaining to the available Phase II information gathered about youth referred to adult court due to excluded offenses during 1978 in six sampled parishes, again with Orleans Parish data being unavailable.

Table 19-5 gives the demographic breakdown for juveniles in adult courts due to excluded offenses in reporting Phase II parishes. Three of the four youth were 16 years of age and one was under 16. All were males, and three of the four were minority youth. Table 19-6 shows that all four of the reported excluded offenses were murder or manslaughter, which is illustrated in Figure 19-2 by percentage.

TABLE 19-5. LOUISIANA: EXCLUDED OFFENSES IN PHASE II PARISHES (BY PARISH, AGE, SEX, AND RACE) IN 1978

Parish	Total Referrals	Age			Sex			Race		
		0-15	16	Unknown	Male	Female	Unknown	White	Minority	Unknown
Caddo	0	0	0	0	0	0	0	0	0	0
Calcasieu	0	0	0	0	0	0	0	0	0	0
East Baton Rouge	2	1 est	1 est	0	2 est	0	0	0	2 est	0
Jefferson	2	0	2	0	2	0	0	1	1	0
Orleans	*	*	*	*	*	*	*	*	*	*
Rapides	0	0	0	0	0	0	0	0	0	0
State Phase II Total	4	1	3	0	4	0	0	1	3	0

* denotes Not Available.

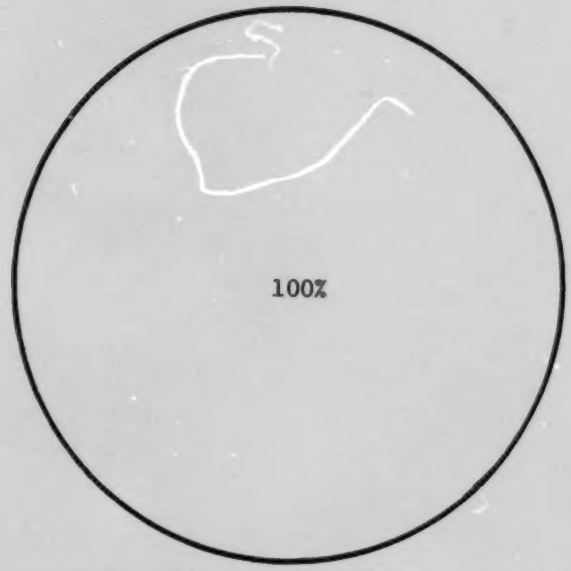
TABLE 19-6. LOUISIANA: EXCLUDED OFFENSES IN REPORTING PHASE II PARISHES (BY PARISH AND BY TYPES OF OFFENSES) IN 1978

Parish[b]	Total Referrals	Offenses[a]								
		Murder/ Man-slaugh-ter	Rape	Rob-bery	As-sault/ Bat-tery	Aggra-vated As-sault	Other Per-sonal	Bur-glary	Other Prop-erty	Public Order	Other General
East Baton Rouge	2	2 est	0	0	0	0	0	0	0	0	0
Jefferson	2	2	0	0	0	0	0	0	0	0	0
State Phase II Total	4	4	0	0	0	0	0	0	0	0	0

a. Only most serious offense per individual is listed.

b. Orleans Parish data were unavailable.

FIGURE 19-2. LOUISIANA: PERCENTAGE OF EXCLUDED OFFENSES IN PHASE II PARISHES (BY OFFENSE CATEGORY) IN 1978



Offenses[a]	
Personal	100%
Property	0%
Public Order	0%
Other General	0%

N= 4

a. Violent offenses (murder/manslaughter, rape, robbery, and aggravated assault) represent 100 percent of all offenses in the Phase II parishes.

LOWER AGE OF CRIMINAL JURISDICTION

The available Phase II data about 17-year-olds arrested for felonies and misdemeanors due tc age of jurisdiction in all parishes is displayed in tables in this section, along with a brief discussion. Routine traffic offense data for this age group were not available from all parishes and the state supplied data only includes some of the arrests for traffic offenses.

The demographic breakdown for arrested youth subject to prosecution in adult court due to maximum age of juvenile court jurisdiction is presented in Table 19-7. Logically, all were 17 years of age. Eighty-five percent were males. Race data were unavailable for all parishes.

TABLE 19-7. LOUISIANA: YOUTH ARRESTS AS ADULTS DUE TO AGE OF JURISDICTION (BY PARISH AND SEX) IN 1978

Parish	Total Arrests[a]	Sex	
		Male	Female
Acadia	43	38	5
Allen	21	19	2
Ascension	62	48	14
Assumption	1	1	0
Avoyelles	100	95	5
Beauregard	28	21	7
Bienville	18	16	2
Bossier	122	97	25
Caddo	407	334	73
Calcasieu	231	176	55
Caldwell	13	13	0
Catahoula	38	33	5
Claiborne	20	18	2
Concordia	69	62	7
De Soto	20	17	3
East Baton Rouge	954	822	132
East Feliciana	9	9	0
Evangeline	61	57	4
Grant	14	11	3
Iberia	8	8	0

TABLE 19-7. (Continued)

Parish	Total Arrests[a]	Sex	
		Male	Female
Iberville	64	57	7
Jackson	22	19	3
Jefferson	1,089	930	159
Jefferson Davis	9	8	1
Lafayette	204	176	28
Lafourche	133	119	14
LaSalle	6	2	4
Lincoln	38	31	7
Livingston	33	26	7
Madison	32	29	3
Morehouse	61	49	12
Natchitoches	45	35	10
Orleans	1,919	1,637	282
Ouachita	189	173	16
Pointe Coupee	6	4	2
Rapides	290	239	51
Red River	2	2	0
Richland	7	7	0
Sabine	28	26	2
St. Bernard	88	65	23
St. Charles	52	49	3
St. Helena	9	9	0
St. James	1	1	0
St. John the Baptist	50	48	2
St. Landry	123	108	15
St. Martin	35	27	8
St. Mary	114	87	27
St. Tammany	213	191	22
Tangipahoa	120	101	19
Tensas	1	1	0
Terrebonne	31	28	3
Union	33	31	2
Vermilion	14	12	2
Vernon	58	50	8
Washington	59	54	5

TABLE 19-7. (Continued)

Parish	Total Arrests[a]	Sex	
		Male	Female
Webster	112	87	25
West Baton Rouge	20	12	8
West Carroll	19	15	4
West Feliciana	7	7	0
Winn	7	7	0
State Total	7,582	6,454	1,128

a. All youth arrested were 17 years of age.

Table 19-8 shows the charges for the age of jurisdiction cases. It can be noted that Orleans Parish recorded 13 murder charges (54 percent of all murder charges) and is clearly atypical; no other parish reported more than three. The six largest parishes accounted for 84 percent of the robbery charges. Figure 19-3 illustrates the percentages of offense categories in 1978.

Table 19-9 breaks the age of jurisdiction charges into four major categories. The personal offenses included murder, rape, robbery, and assault charges. The property offenses included burglary, larceny, and auto theft. Drug violations along with offenses such as disorderly conduct, gambling, and conspiracy comprised the public order category. Forty-eight percent of the age of jurisdiction cases were in the "other general" category which, because of the categories used in the compilation of the state's crime statistics, included the following offenses (actual numbers for each unavailable): kidnapping, arson, trespassing, escape, sex offenses other than rape, forgery, receiving or possessing stolen property, liquor violations, traffic offenses, and offenses against the family. Larceny was the second most common charge, constituting 29 percent. Robbery represented 79 percent (202) of the total personal offenses. Sentence information was not available for 17-year-olds in adult courts.

TABLE 19-8. LOUISIANA: YOUTH ARRESTS AS ADULTS DUE TO AGE OF JURISDICTION (BY PARISH AND BY TYPES OF OFFENSES) IN 1978

Parish	Total Arrests	Offenses[a]									
		Murder/ Manslaughter	Rape	Robbery	Assault/ Battery[b]	Aggravated Assault[b]	Other Personal	Burglary	Other Property	Public Order	Other General
Acadia	43	0	0	2	0	0	0	5	5	4	27
Allen	21	0	1	1	0	0	0	8	5	1	5
Ascension	62	0	2	0	3	0	0	3	13	3	38
Assumption	1	0	0	0	0	0	0	1	0	0	0
Avoyelles	100	0	1	0	9	0	0	11	12	6	61
Beauregard	28	0	0	0	0	0	0	1	10	2	15
Bienville	18	0	0	0	2	0	0	4	1	4	7
Bossier	122	0	0	0	3	0	0	20	32	5	62
Caddo	407	3	1	10	14	0	0	41	136	22	180
Calcasieu	231	1	0	6	6	0	0	21	61	18	118
Caldwell	13	0	0	0	0	0	0	1	4	2	6
Catahoula	38	0	3	0	0	0	0	4	10	4	17
Claiborne	20	0	0	0	0	0	0	5	6	0	9
Concordia	69	0	0	3	1	0	0	8	16	9	32
De Soto	20	0	1	0	1	0	0	1	2	0	15
East Baton Rouge	954	1	4	16	70	0	0	106	259	92	406
East Feliciana	9	0	0	0	0	0	0	0	2	0	7
Evangeline	61	0	0	0	0	0	0	5	7	6	43
Grant	14	0	0	0	2	0	0	2	1	2	7
Iberia	8	0	0	1	0	0	0	4	3	0	0

TABLE 19-8. (Continued)

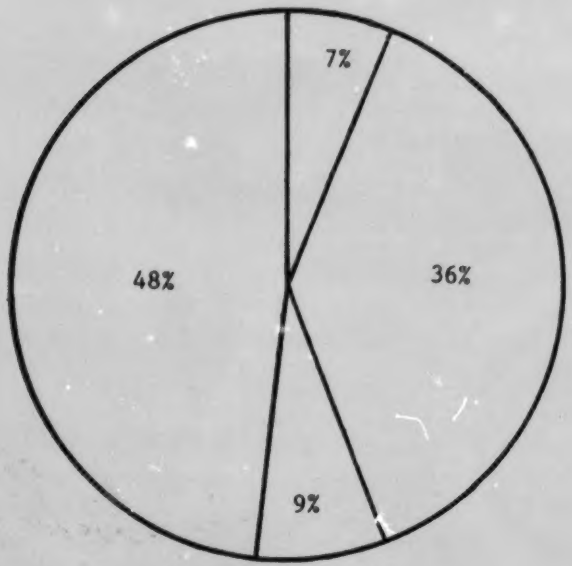
Parish	Total Arrests	Offenses[a]									
		Murder/ Man-slaugh-ter	Rape	Rob-bery	As-sault/ Bat-tery[b]	Aggra-vated As-sault[b]	Other Per-sonal	Bur-glary	Other Prop-erty	Public Order	Other General
Iberville	64	0	0	1	1	0	0	21	12	11	18
Jackson	22	0	0	0	0	0	0	3	4	2	13
Jefferson	1,089	2	1	13	48	0	0	151	256	135	483
Jefferson Davis	9	0	0	0	1	0	0	1	2	2	3
Lafayette	204	0	0	2	5	0	0	32	65	17	83
Lafourche	133	0	0	1	9	0	0	15	24	20	64
La Salle	6	0	0	0	1	0	0	0	2	1	2
Lincoln	38	0	0	2	3	0	0	3	7	2	21
Livingston	33	0	0	1	3	0	0	0	4	3	22
Madison	32	0	0	0	4	0	0	7	5	2	14
Morehouse	61	0	0	1	1	0	0	12	20	3	24
Natchitoches	45	0	0	0	1	0	0	8	13	1	22
Orleans	1,919	13	5	122	46	0	0	192	411	111	1,019
Ouachita	189	0	0	1	7	0	0	42	33	19	87
Pointe Coupee	6	0	0	0	0	0	0	2	0	0	4
Rapides	290	0	0	1	13	0	0	34	90	57	95
Red River	2	0	0	0	1	0	0	0	0	0	1
Richland	7	0	0	0	1	0	0	2	2	0	2
Sabine	28	0	0	0	4	0	0	5	5	1	13
St. Bernard	88	0	0	1	7	0	0	9	21	17	33
St. Charles	52	0	0	1	2	0	0	7	3	4	35
St. Helena	9	0	2	0	0	0	0	2	2	0	3
St. James	1	0	0	0	0	0	0	0	0	1	0

TABLE 19-8. (Continued)

Parish	Total Arrests	Offenses[a] Murder/ Manslaughter	Rape	Robbery	Assault/ Battery[b]	Aggravated Assault[b]	Other Personal	Burglary	Other Property	Public Order	Other General
St. John the Baptist	50	0	1	1	4	0	0	3	5	6	30
St. Landry	123	0	0	0	10	0	0	5	23	11	74
St. Martin	35	1	0	0	4	0	0	11	10	1	8
St. Mary	114	0	0	2	4	0	0	10	26	3	69
St. Tammany	213	2	1	2	9	0	0	38	35	20	106
Tangipahoa	120	1	3	4	2	0	0	19	27	9	55
Tensas	1	0	0	0	0	0	0	1	0	0	0
Terrebonne	31	0	1	0	2	0	0	8	2	1	17
Union	33	0	0	0	0	0	0	7	2	3	21
Vermilion	14	0	1	1	2	0	0	1	0	4	5
Vernon	58	0	0	0	1	0	0	5	14	5	33
Washington	59	0	0	4	3	0	0	9	9	3	31
Webster	112	0	3	2	1	0	0	18	28	12	48
West Baton Rouge	20	0	0	0	0	0	0	0	3	0	17
West Carroll	19	0	0	0	0	0	0	0	2	0	17
West Feliciana	7	0	0	0	0	0	0	1	0	1	5
Winn	7	0	0	0	0	0	0	0	1	0	6
State Total	7,582	24	31	202	311	0	0	935	1,753	668	3,658

a. Only most serious offense per individual listed.
b. The state does not separate aggravated assaults from the general category of assaults.

FIGURE 19-3. LOUISIANA: PERCENTAGE OF YOUTH ARRESTS AS ADULTS DUE TO AGE OF JURISDICTION (BY OFFENSE CATEGORY) IN 1978



Offenses[a]	
Personal	7%
Property	36%
Public Order	9%
Other General	48%

N= 7,582

a. Violent offenses (murder/manslaughter, rape, robbery, and aggravated assault) represent three percent of all offenses in the state.

TABLE 19-9. LOUISIANA: YOUTH ARRESTS AS ADULTS DUE TO AGE OF JURISDICTION (BY OFFENSE TYPE AND FREQUENCY) IN 1978

Types of Offenses	Violent Offense Subtotals	Offense Category Subtotals	Totals
PERSONAL OFFENSES			568
Violent Offenses		257	
Murder	24		
Manslaughter	--		
Rape	31		
Robbery	202		
Aggravated Assault[a]	--		
Arson		--	
Kidnapping		--	
Assault/Battery[a]		311	
Other Personal		0	
PROPERTY OFFENSES			2,688
Burglary		935	
Larceny		1,609	
Auto Theft		144	
Trespassing		--	
Other Property		0	
PUBLIC ORDER OFFENSES			668
Drug Violations		606	
Liquor Violations		--	
Other Public Order		62	
OTHER GENERAL OFFENSES			3,658
Status Offenses[b]		23	
Offenses Against the Family		--	
Other General[c]		3,635	
TOTAL OFFENSES			7,582

-- denotes Not Applicable.

a. The state does not separate aggravated assaults from the general category of assaults.

b. According to Louisiana Commission on Law Enforcement, these arrests may have been made for status offenses occurring before these youth attained majority or for offenses so designated which do apply to adults.

c. Because of the method that the state's crime statistics were compiled, this category includes arson, trespassing, escape, sex offenses other than rape, forgery, receiving or possessing stolen property, liquor violations, traffic offenses, and offenses against the family for which actual numbers were not available. Some of these offenses would normally be presented under one of the other three major categories.

Table 19-10 provides a summary of the number of cases reported in the preceding tables concerning total referrals to adult courts; the number selected for Phase II investigation; and findings concerning conviction and confinement practices applicable to these youth. Data on judicial transfers and youth in adult courts due to excluded offenses does not include information from the parish with the largest juvenile population, Orleans, as well as Lincoln Parish.

TABLE 19-10. LOUISIANA: SUMMARY OF TABLES (BY LEGAL MECHANISM)

	Judicial Waiver	Excluded Offenses	Age of Jurisdiction[a]
Total Referrals to Adult Courts in 1978 (Table 19-1)	9	14	7,582
Total Referrals Selected for Phase II (Tables 19-3, 19-5, and 19-7)	3	4	7,582
Total Referrals Resulting in Convictions	*	*	*
Total Convictions Resulting in Sentences of Confinement	*	*	*

* denotes Not Available.

a. Arrest data.

Due to the lack of requested data, there are not many summary conclusions to be reached regarding the transfer, excluded offenses, and traffic offenses of juveniles in Louisiana. Data were available for only two transferred youth and only four excluded offenses cases. For both mechanisms, data were also lacking for dispositions, sentence types, and sentence durations. Separate traffic offense data were not available for the majority of the 64 Louisiana parishes, and were not displayed in this profile.

All of the age of jurisdiction cases were 17 years of age, and 85 percent of them were males. The larger parishes tended to have higher rates

of these cases, particularly for murder and robbery. Forty-eight percent of these were charged with "other general" offenses. Due to the compilation of the state's crime statistics, this category included some violent and property offenses. Property offenses were 35 percent of the charges, with personal offenses being slightly over seven percent.

FOOTNOTES

1. Louisiana Code of Juvenile Procedure, Chapter 2, Article 14.
2. Louisiana Revised Statutes Annotated, Section 13:1569(3).
3. Louisiana Revised Statutes Annotated, Section 13:1571.1.
4. Louisiana Revised Statutes Annotated, Section 13:1571.1; Louisiana Code of Juvenile Procedure, Act 106.
5. Louisiana Revised Statutes Annotated, Section 13:1570(A)(5).
6. Louisiana Revised Statutes Annotated, Section 13:1571.10.
7. Louisiana Revised Statutes Annotated, Section 13:1571.1 (1978); State in the Interest of Hunter, 387 So.2d 1086 (1980).
8. Louisiana Revised Statutes Annotated, Section 13:1570 (1980).
9. Louisiana Revised Statutes Annotated, Section 13:1571.1 (1980).
10. State v. Sheppard, 268 So.2d 590; 263 La. 379 (1972).
11. Louisiana Revised Statutes Annotated, Article 7, Sections 35 and 52; Section 13:1570.
12. State ex rel. Moore v. Warden of Louisiana St. Pen., 308 So.2d 749 (1975).
13. State v. Whatley, 320 So.2d. 123 (1975); Furman v. Georgia, 409 U.S. 15 (1972).
14. State v. Smith, 339 So.2d. 829 (1976); State v. Moore, 340 So.2d. 1351 (1976).
15. State v. Dubois, 339 So.2d., 412 (1976).
16. State v. Everfield, 342 So.2d. 648 (1977); State v. Hall, 350 So. 2d. 141 (1977).
17. Kent v. United States, 383 U.S.541 (1966).
18. State in the Interest of Smith, 359 So.2d. 1271 (1978).
19. State in the Interest of Dino, 359 So.2d. 586 (1978).
20. State ex rel. Coco, 363 So.2d. 207 (1978).
21. Coker v. Georgia, 433 U.S.584 (1977).
22. State in the Interest of Hunter, 387 So.2d. 1086 (1980).

MISSISSIPPI PROFILE

ACKNOWLEDGMENTS

The Academy expresses special thanks to Pinkie L. McMurray, Research Assistant, Mississippi Department of Public Welfare, for providing data on youth referred to adult courts. The Academy also expresses its appreciation to Mr. Neil of the Governor's Highway Safety Program, for ascertaining that no one in the state compiles data on juvenile traffic citations routinely handled in adult courts, and to the many other state and local officials who provided us with the necessary data.

METHODOLOGY

Information on youth in Mississippi adult courts was collected from a variety of sources. The State Department of Public Welfare provided the study with a computer tape enumerating the number of youth judicially waived from juvenile to adult courts in each of the state's 82 counties. In addition to this statewide Phase I judicial waiver information, the state agency also provided some Phase II information on these cases, including age, sex, race, and offense data. A local survey was then undertaken of counties meeting selection criteria for Phase II data collection to obtain remaining judgment, disposition, and sentencing information about judicial waivers. Twenty-one counties fit these selection criteria, which stipulated that they must have waived five or more youth in 1978, or that they rank in the top ten percent most populous counties in the state. It is important to bear in mind that because of these data collection procedures, different parts of Phase II information presented on judicial waivers are based on different numbers of reporting counties. Phase II information through offenses describes all counties, regardless of their population or 1978 incidence of waiver, because this information was readily available from the Department of Public Welfare. Phase II information on judgments, dispositions, and sentences is only based on the 21 counties involved in the local survey through the usual selection criteria of waiver incidence and population.

Information on youth tried in adult courts due to offenses excluded from juvenile court jurisdiction was gathered in the course of collecting Phase II waiver data in the 21 counties fitting selection criteria for that legal mechanism. Incidence, age, sex, race, and offense information were available from the adult courts in these counties on excluded offenses. Judgment, sentencing, and dispositional data are not included in this profile. Accordingly, data presented on excluded offenses constitute neither a definitive statewide statement on this legal mechanism, nor complete examination of any given case through to confinement practices. Instead, it best provides some indication

into the frequency of the phenomenon in selected jurisdictions, including the most populous in the state, and a description of the characteristics and offenses of youth subject to exclusion to adult court in those areas.

State and selected local contacts indicated unavailability or severe retreival problems for data on youth tried in adult courts with juvenile court permission for misdemeanors, or for excluded traffic violations. Accordingly, these cases have not been included in the state profile.

COURT ORGANIZATION

The circuit courts, consisting of 20 circuits in 92 locations, handle civil matters involving amounts greater than $200, as well as felony cases, misdemeanors, and some appeals.

The chancery courts, with 20 systems and at least one location in each of the state's 82 counties, handle civil matters such as probate, guardianship, and divorce.

There are 16 county courts in the state that share jurisdiction with the circuit courts in some misdemeanor cases and preliminary hearings for felonies as well as some civil matters not exceeding $10,000.

County courts hear juvenile cases, with the exception of Harrison County, where the family court handles cases involving delinquent and neglected children. In counties that do not have county courts, chancery courts generally hear juvenile cases. The one exception is in Pearl, Mississippi, where there is no county court but the municipal court exercises juvenile jurisdiction. In all cases, be they chancery, county, family, or municipal courts, the court exercising juvenile jurisdiction is referred to as the "youth court" in the Mississippi statutes.[1]

The 141 municipal courts handle all cases regarding violations of municipal ordinances. All traffic offenses, including juvenile, may be dealt with in municipal courts or justice courts. The justice courts handle civil actions under $500, misdemeanors, and felony preliminaries.

An overview of Mississippi's courts by their jurisdiction over juveniles appears below.

MISSISSIPPI: COURT JURISDICTION OVER JUVENILES

General Juvenile Jurisdiction	Jurisdiction over Transferred Juveniles[a]	Juvenile Traffic
Chancery Courts (56 counties) County Courts (16 counties) Family Court (1 county) Municipal Court (1 county)	Circuit Courts[b]	Municipal Courts Justice Courts

a. With permission of the Youth Court, misdemeanors violations could be heard in municipal or justice courts.

b. In Walls v. State (1976), the Mississippi Supreme Court ruled that certification by the youth court must be to the circuit court.

TRANSFER PROCESS

Juvenile court jurisdiction extends to age 18 in Mississippi.[2] During the period included for study (1978), there were two legal mechanisms by which juveniles could be referred to adult courts.

Judicial Waiver

In 1978, juveniles 13 years of age or older charged with an offense which, if committed by an adult, would be a felony could be certified to adult courts following a transfer hearing.[3] (The Mississippi Supreme Court in Walls v. State ruled that certification from youth court must be to the circuit court in the county in which the crime was committed.) While the youth court prosecutor generally initiated the transfer process by filing a petition for a hearing, the code was silent in 1978 as to the exact location of responsibility for initiation. The court was then required to make a full investigation, but consideration of no specific factors was not required by statute.

There is a second form of transfer to adult courts which is included under this section because it so resembles judicial waiver. In cases where juveniles were charged with lesser misdemeanor offenses described by state law or municipal or county ordinances,[4] youth must be transferred to juvenile courts from municipal or justice courts, unless adult prosecution has been

permitted by order of the juvenile court. This process resembles judicial waiver because original jurisdiction and authority to transfer rests with the juvenile court. It departs from what is usually thought of as judicial waiver because no formal waiver hearing is required, and because youth may enter the court system at the adult level and stay there for prosecution with permission of the juvenile court. Where youth are tried and committed under this process in adult court, the juvenile court retains authority to stay execution of the adult court sentence, and dispose of the case as it sees fit. The Mississippi statute states that:

> A child 13 years old or older brought before any justice of the peace or municipal court charged with a crime shall be transferred to the youth court of the county, unless prosecution is permitted by order of the youth court. After conviction and sentence of any child, as above provided, the youth court of the county shall have the power to stay the execution of the sentence and release such child on good behavior or such other order as the court may see fit.[5]

Excluded Offenses

In addition to the above waiver and waiver-like mechanisms, Mississippi youth may appear in circuit court having been charged with offenses excluded from juvenile court jurisdiction. Juveniles 13 years old or older charged with a capital offense or an offense punishable by life imprisonment are excluded from juvenile court jurisdiction and tried as adults.[6] In Mississippi, a number of serious offenses can fall under these categories, including murder, forcible rape, and armed robbery.

Juvenile traffic cases, except for habitual offenders and juvenile court wards, are also excluded from juvenile court jurisdiction, and they are heard in municipal or justice courts. These courts proceed with youthful traffic offenders in the same way as for adults, and it is not necessary to transfer cases to the juvenile court or receive permission to proceed.[7] However, as with the previously described misdemeanors heard in municipal and justice courts, the youth courts retain authority to stay execution of adult court sentences and dispose of cases according to their own discretion.

There was a major revision to the Mississippi code in 1979, with amendments added in 1980, which affected several of the provisions governing youth in adult courts.

Fishing and hunting violations committed by juveniles were brought under the same exclusion procedure as existed for traffic violations in 1978.[8] The juvenile courts also retain jurisdiction to stay execution of sentences imposed by municipal and justice courts in these cases and dispose of them as they see fit.

Five noteworthy changes were made in the way youth are judicially waived from juvenile to criminal courts.

First, youth may now be waived if accused of a delinquent act, rather than for an act which would be a felony if committed by an adult, as previously specified.[9]

Second, a provision was added allowing the circuit court to review the transfer proceedings on motion of the transferred child, once a youth has been waived. The court shall remand the youth back to juvenile court if it finds no substantial evidence to support the waiver of juvenile jurisdiction. The circuit court may also review the conditions of custody or release provided for by the juvenile court, pending criminal proceedings.

Third, additions were made to the code with reference to the initiation of judicial waiver. While previously silent on this issue, the code now indicates that judicial waiver proceedings may be initiated by youth court prosecutors or youth court.[10]

Fourth, a provision was added to the code stipulating that youth waived and convicted in criminal court will thereafter be referred directly to the criminal court for any subsequent offenses.[11] Provisions of this type are commonly referred to under the rubric of "once waived, always waived."

Finally, the fifth change to the Mississippi code related to judicial waiver enumerated factors to be considered in judicial waiver hearings and described the judicial waiver procedure. The juvenile court must first determine whether there is probable cause to believe that the juvenile committed the alleged offense. If the court finds probable cause, it must then find by clear and convincing evidence that there are no reasonable prospects of rehabilitating the youth within the juvenile justice system, taking into consideration 12 specific factors. These factors include:

> (a) whether or not the alleged offense constituted a substantial danger to the public;
>
> (b) the seriousness of the alleged offense;
>
> (c) whether or not the transfer if required to protect the community;
>
> (d) whether or not the alleged offense was committed in an aggressive, violent, premeditated or willful manner;
>
> (e) whether the alleged offense was against persons or against property, greater weight being given to the offense against persons, especially if personal injury resulted;
>
> (f) the sophistication, maturity and educational background of the child;

(g) the child's home situation, emotional condition and life style;

(h) the history of the child, including experience with the juvenile justice system, other courts, probation, commitments to juvenile institutions or other placements;

(i) whether or not the child can be retained in the juvenile justice system long enough for effective treatment or rehabilitation;

(j) the dispositional resources available to the juvenile justice system;

(k) dispositional resources available to the adult correctional system for the child if treated as an adult; and

(l) any other factors deemed relevant by the youth court.[12]

CASE LAW SUMMARY

Since 1950, the Mississippi Supreme Court has repeatedly ruled on issues related to youth in adult courts. The court held, in Bullock v. Harpole, that since Mississippi statutes expressly excluded offenses punishable by life imprisonment or death from youth court jurisdiction, no certification or declination hearing was required prior to criminal prosecution.[13] The court, in Davis v. State, reaffirmed Bullock, and rejected the defendant's contention that the statutory exclusion violated the Fourteenth Amendment to the U.S. Constitution.[14] (See also Smith v. State and Bell v. State.[15]) In Grant v. State, the court held that the circuit court should have transferred the case to the youth court after it directed the verdict in the defendant's favor because of the state's failure to prove the charge of murder or manslaughter.[16] The court stated that the circuit court's jurisdiction terminated upon entry of the order directing the verdict. In Jackson v. State, the defendant contended that Mississippi statutes, which provided for the exclusion of individuals 13 years of age or older charged with crimes punishable by life imprisonment or death from youth court jurisdiction, was unconstitutional because of the power it vested in the prosecutor, and because it violated the individual's right to the presumption of innocence.[17] The court rejected both contentions. Further, the court held, in Carter v. State, that this state did not require that the offense be punishable by both life imprisonment and death, but that one of the two specified punishments was sufficient.[18]

The Mississippi Supreme Court held, in Hopkins v. State, that a certification order which failed to show that a hearing was held at which the juvenile and his or her parents were present, that the juvenile was represented by counsel, or that the right to counsel was waived, was invalid.[19] In Butler

v. State, the court held that certification proceedings must be held concerning a 17 year old charged with felonious escape before circuit court may assume jurisdiction over the matter.[20] However, the court held, in Hammons v. State, that the certification order need not be filed prior to the commencement of the original proceedings.[21] Further, the court held, in Walker v. State, that where a grand jury indicted the juvenile for manslaughter which was not punishable by life imprisonment or death, the circuit court improperly refused to transfer the case to the youth court.[22]

The court held, in In the Interest of Watkins, that a certification order is not a final, appealable order.[23] Finally, the court held, in Walls v. State, that the certification by the youth court must be to the circuit court having jurisdiction over the county in which the crime was committed.[24]

CORRECTIONS INFORMATION

The Department of Corrections is responsible for the state's corrections system for adults. The Mississippi Department of Youth Services is separate from the Department of Corrections and operates a statewide comprehensive program for juveniles ten to 18 years old.

Individuals tried in juvenile courts can be paroled through the Community Services Division or sent to Columbia Training School (for ages ten to 15) or to Oakley Training School (for ages 16 to 18). While administrative transfers are permitted between the juvenile facilities, there is no provision for an administrative transfer from a juvenile facility to an adult institution.

Juveniles certified as adults may be sent to either the Mississippi State Penitentiary or to one of the juvenile facilities. Due to the overcrowded conditions at the penitentiary, a number of offenders sentenced to the penitentiary have had to remain in a local jail for the term of their sentence. There are currently no provisions to administratively transfer an individual from an adult institution to a juvenile facility; this is not defined by statute, but is followed in practice.

STATE DATA SUMMARY

In Mississippi, during 1978, there were several ways in which juveniles could be tried in adult courts. Any youth 13 years old or older charged with a felony could be waived to circuit court after a hearing in youth court. Individuals 13 or older charged with a capital offense or an offense punishable by life imprisonment are excluded from initial juvenile court jurisdiction. Juvenile traffic offenders were routinely tried in municipal and justice courts. Finally, adult municipal and justice courts must be given permission by the youth court to try minor offenses. The youth court may assert jurisdiction over the child at any stage in the proceedings of youth handled in adult courts for traffic or other minor misdemeanors.

Table 25-1 reflects the number of juveniles referred to adult courts in Mississippi. The judicial referral rate to adult courts in 1978 is substantial for judicial waiver, with 6.4 per 10,000 juveniles from eight to 17 years of age. This represents a judicial referral of 295 cases from a juvenile population of 458,631. Thirteen juveniles went directly to adult courts due to excluded offense provisions among the 21 counties that were surveyed and able to report this information.

TABLE 25-1. MISSISSIPPI: REFERRALS OF JUVENILES TO ADULT COURTS IN 1978 (BY COUNTY, RATE, AND LEGAL MECHANISMS)

County	Juvenile Population (Ages 8-17)[a]	Judicial Waiver		Excluded Offenses	
		Cases	Rate[b]	Cases	Rate[b]
Adams	7,718	23	29.800	2	5.183
Alcorn	4,778	0	0.000	**	0.000
Amite	2,676	1	3.737	**	0.000
Attala	3,493	1	2.863	**	0.000
Benton	1,600	0	0.000	**	0.000
Bolivar	10,922	13	11.903	0	0.000
Calhoun	2,746	0	0.000	**	0.000
Carroll	1,847	0	0.000	**	0.000
Chickasaw	3,55.	2	5.632	**	0.000
Choctaw	1,650	0	0.000	**	0.000
Clairborne	2,140	0	0.000	**	0.000
Clarke	2,713	0	0.000	**	0.000
Clay	3,674	0	0.000	**	0.000
Coahoma	8,962	0	0.000	**	0.000
Copiah	4,928	0	0.000	**	0.000

TABLE 25-1. (Continued)

County	Juvenile Population (Ages 8-17)[a]	Judicial Waiver		Excluded Offenses	
		Cases	Rate[b]	Cases	Rate[b]
Covington	2,996	0	0.000	**	0.000
De Soto	11,081	2	1.805	**	0.000
Forrest	10,215	1	0.979	0	0.000
Franklin	1,420	0	0.000	**	0.000
George	2,934	1	3.408	**	0.000
Greene	1,662	0	0.000	**	0.000
Grenada	3,958	5	12.633	0	0.000
Hancock	3,560	0	0.000	**	0.000
Harrison	26,488	5	1.888	3 est	2.265
Hinds	43,420	39	8.982	0 est	0.000
Holmes	5,041	6	11.902	0	3.967
Humphreys	3,242	2	6.169	**	0.000
Issaquena	517	0	0.000	**	0.000
Itawamba	3,093	2	6.466	**	0.000
Jackson	22,670	7	3.088	**	0.441
Jasper	3,207	0	0.000	**	0.000
Jefferson	1,902	0	0.000	**	0.000
Jefferson Davis	2,637	0	0.000	**	0.000
Jones	10,254	36	35.108	*	0.975
Kemper	1,948	2	10.267	**	0.000
Lafayette	3,992	1	2.505	**	0.000
Lamar	3,488	0	0.000	**	0.000
Lauderdale	12,730	12	9.427	0	0.000
Lawrence	2,439	0	0.000	**	0.000
Leake	3,088	0	0.000	**	0.000
Lee	9,464	5	5.283	1	1.056
Leflore	8,483	0	0.000	**	0.000
Lincoln	5,025	0	0.000	**	0.000
Lowndes	10,274	7	6.813	0 est	0.000
Madison	7,090	10	14.104	0	0.000
Marion	4,717	1	2.120	**	0.000
Marshall	6,039	1	1.656	**	0.000
Monroe	6,678	4	5.990	**	0.000
Montgomery	2,494	5	20.048	0	0.000
Neshoba	4,259	7	16.436	0	0.000

TABLE 25-1. (Continued)

County	Juvenile Population (Ages 8-17)[a]	Judicial Waiver Cases	Judicial Waiver Rate[b]	Excluded Offenses Cases	Excluded Offenses Rate[b]
Newton	3,210	0	0.000	**	0.000
Noxubee	2,880	0	0.000	**	0.000
Oktibbeha	5,339	1	1.873	**	0.000
Panola	6,046	1	1.654	**	0.000
Pearl River	5,414	7	12.929	2	3.694
Perry	1,946	0	0.000	**	0.000
Pike	6,400	1	1.562	**	0.000
Pontotoc	3,380	0	0.000	**	0.000
Prentiss	3,765	0	0.000	**	0.000
Quitman	3,504	2	5.708	**	0.000
Rankin	10,470	10	9.551	1	0.955
Scott	4,480	0	0.000	**	0.000
Sharkey	2,029	1	4.929	**	0.000
Simpson	3,991	0	0.000	**	0.000
Smith	2,713	0	0.000	**	0.000
Stone	1,582	0	0.000	**	0.000
Sunflower	7,891	56	70.967	*	0.000
Tallahatchie	4,317	6	13.899	*	2.316
Tate	4,367	0	0.000	**	0.000
Tippah	3,099	0	0.000	**	0.000
Tishomingo	2,693	0	0.000	**	0.000
Tunica	2,755	0	0.000	**	0.000
Union	3,506	0	0.000	**	0.000
Walthall	2,507	0	0.000	**	0.000
Warren	9,681	5	5.165	0	0.000
Washington	15,681	2	1.275	4	2.551
Wayne	3,592	1	2.784	**	0.000
Webster	1,777	0	0.000	**	0.000
Wilkinson	1,869	0	0.000	**	0.000
Winston	3,827	0	0.000	**	0.000

TABLE 25-1. (Continued)

County	Juvenile Population (Ages 8-17)[a]	Judicial Waiver Cases	Judicial Waiver Rate[b]	Excluded Offenses Cases	Excluded Offenses Rate[b]
Yalobusha	2,220	0	0.000	**	0.000
Yazoo	5,797	1	1.725	**	0.000
Total	458,631	295	6.432	13 est	0.283

* denotes Not Available.
** denotes Not Surveyed.

a. 1978 population estimates were developed by the National Center for Juvenile Justice using data from two sources: the 1970 national census and the National Cancer Institute 1975 estimated aggregate census.

b. Rate per 10,000 juveniles eight to 17 years old (1978).

The relationship between counties about which Phase I information was collected, and those which were selected for Phase II investigation, is shown in Tables 25-2A and 25-2B. Table 25-2A shows that some Phase II information on judicial waiver was available on all counties from the Department of Public Welfare. In addition, as stated in the methodology section of this profile, Phase II information on judicial waivers not available from the state source was collected in the 21 counties having more than five judicial waivers or which rank in the top ten percent most populous jurisdictions in the state.

Table 25-2B indicates that available Phase I and Phase II information on excluded offenses was also gathered in the 21 counties involved in the local survey for Phase II judicial waiver data. These 21 counties contain an estimated 52 percent of all Mississippi youth aged eight through 17 years of age.

TABLE 25-2A. MISSISSIPPI: RELATIONSHIP OF PHASE II COUNTIES TO ALL COUNTIES BASED UPON 1978 POPULATION ESTIMATES AND JUDICIAL WAIVER DATA

	Juvenile Population (Ages 8-17)[a]	Number of Counties Judicial Waiver	Number of Referrals Judicial Waiver
State	458,631	82	295
Selected for Phase II Investigation	458,631	82	295
Percentage of State Selected for Phase II Investigation	100%	100%	100%

a. 1978 population estimates were developed by the National Center for Juvenile Justice using data from two sources: the 1970 national census and the National Cancer Institute 1975 estimated aggregate census.

MS-12

TABLE 25-2B. MISSISSIPPI: RELATIONSHIP OF PHASE II COUNTIES TO ALL COUNTIES, BASED UPON 1978 POPULATIONS ESTIMATES AND EXCLUDED OFFENSES DATA

	Juvenile Population (Ages 8-17)[a]	Number of Counties Excluded Offenses	Number of Referrals Excluded Offenses
State	458,631	82	*[b]
Selected for Phase II Investigation	240,451	21	13
Percentage of State Selected for Phase II Investigation	52%	26%	*

MS-13

* denotes Not Available.

a. 1978 population estimates were developed by the National Center for Juvenile Justice using data from two sources: the 1970 national census and the National Cancer Institute 1975 estimated aggregate census.

b. Both Phase I and Phase II data on excluded offenses were gathered in the course of collecting Phase II judicial waiver data. Therefore, the 13 excluded offenses cases in these 21 Phase II counties are the only cases identified for this legal mechanism.

Judicial Waiver

This section contains a series of tables and a brief discussion pertaining to the Phase II information on Mississippi youth judicially waived during 1978.

Table 25-3 gives a demographic breakdown, including age, sex, and race information by county for the 295 judicial waivers reported by the Department of Public Welfare. Of the known cases, 50 percent (175) were 17 years of age, 23 percent (66) were 16 years of age, and 16 percent (48) were under 16 years of age. Eighty-six percent (254) were males and 14 percent (41) were females. Of the cases whose race is known, 69 percent (195) were minority, while 31 percent (42) were white youth.

TABLE 25-3. MISSISSIPPI: JUDICIAL WAIVERS TO ADULT COURTS (BY COUNTY AND BY AGE, SEX, AND RACE) IN 1978

County	Total Waivers	Age					Sex		Race		
		0-15	16	17	18+	Unknown	Male	Female	White	Minority	Unknown
Adams	23	4	4	15	0	0	21	2	9	14	0
Alcorn	0	0	0	0	0	0	0	0	0	0	0
Amite	1	0	1	0	0	0	1	0	*	*	1 est
Attala	1	0	0	1	0	0	1	0	0	1	0
Benton	0	0	0	0	0	0	0	0	0	0	0
Bolivar	13	5	0	8	0	0	13	0	1	12	0
Calhoun	0	0	0	0	0	0	0	0	0	0	0
Carroll	0	0	0	0	0	0	0	0	0	0	0
Chickasaw	2	0	0	2	0	0	2	0	2	0	0
Choctaw	0	0	0	0	0	0	0	0	0	0	0
Claiborne	0	0	0	0	0	0	0	0	0	0	0
Clarke	0	0	0	0	0	0	0	0	0	0	0
Clay	0	0	0	0	0	0	0	0	0	0	0
Coahoma	0	0	0	0	0	0	0	0	0	0	0
Copiah	0	0	0	0	0	0	0	0	0	0	0
Covington	0	0	0	0	0	0	0	0	0	0	0
De Soto	2	0	0	2	0	0	2	0	0	2	0
Forrest	1	0	0	0	1	0	1	0	0	1	0
Franklin	0	0	0	0	0	0	0	0	0	0	0
George	1	0	0	1	0	0	1	0	1	0	0
Greene	0	0	0	0	0	0	0	0	0	0	0
Grenada	5	1	0	4	0	0	5	0	4	1	0
Hancock	0	0	0	0	0	0	0	0	0	0	0
Harrison	5	2	0	3	0	0	4	1	4	1	0
Hinds	39	2	12	25	0	0	36	3	8	31	0

TABLE 25-3. (Continued)

County	Total Waivers	Age					Sex		Race			
		0-15	16	17	18+	Unknown	Male	Female	White	Minority	Unknown	
Holmes	6	4	0	2	0	0	6	0	2	4	0	
Humphreys	2	0	0	2	0	0	2	0	*	*	2	est
Issaquena	0	0	0	0	0	0	0	0	0	0	0	
Itawamba	2	0	0	2	0	0	2	0	*	*	2	est
Jackson	7	1	1	5	0	0	6	1	4	3	0	
Jasper	0	0	0	0	0	0	0	0	0	0	0	
Jefferson	0	0	0	0	0	0	0	0	0	0	0	
Jefferson Davis	0	0	0	0	0	0	0	0	0	0	0	
Jones	36	4	9	19	1	3	31	5	3	33	0	
Kemper	2	0	0	2	0	0	2	0	2	0	0	
Lafayette	1	0	1	0	0	0	1	0	0	1	0	
Lamar	0	0	0	0	0	0	0	0	0	0	0	
Lauderdale	12	1	2	8	1	0	9	3	6	6	0	
Lawrence	0	0	0	0	0	0	0	0	0	0	0	
Leake	0	0	0	0	0	0	0	0	0	0	0	
Lee	5	0	0	5	0	0	4	1	4	1	0	
Leflore	0	0	0	0	0	0	0	0	0	0	0	
Lincoln	0	0	0	0	0	0	0	0	0	0	0	
Lowndes	7	0	0	7	0	0	3	4	5	2	0	
Madison	10	0	2	8	0	0	10	0	3	7	0	
Marion	1	0	0	1	0	0	1	0	*	*	1	est
Marshall	1	0	0	1	0	0	1	0	0	1	0	
Monroe	4	0	1	3	0	0	4	0	0	4	0	
Montgomery	5	2	0	3	0	0	4	1	4	1	0	
Neshoba	7	2	2	3	0	0	6	1	*	*	7	
Newton	0	0	0	0	0	0	0	0	0	0	0	
Noxubee	0	0	0	0	0	0	0	0	0	0	0	
Oktibbeha	1	0	0	1	0	0	1	0	0	1	0	
Panola	1	0	1	0	0	0	0	1	0	1	0	
Pearl River	7	0	4	3	0	0	7	0	7	0	0	
Perry	0	0	0	0	0	0	0	0	0	0	0	
Pike	1	0	1	0	0	0	1	0	0	1	0	
Pontotoc	0	0	0	0	0	0	0	0	0	0	0	
Prentiss	0	0	0	0	0	0	0	0	0	0	0	
Quitman	2	0	0	2	0	0	2	0	0	2	0	
Rankin	10	0	0	10	0	0	8	2	5	5	0	
Scott	0	0	0	0	0	0	0	0	0	0	0	
Sharkey	1	1	0	0	0	0	1	0	1	0	0	
Simpson	0	0	0	0	0	0	0	0	0	0	0	
Smith	0	0	0	0	0	0	0	0	0	0	0	
Stone	0	0	0	0	0	0	0	0	0	0	0	
Sunflower	56	14	18	24	0	0	43	13	7	49	0	
Tallahatchie	6	3	3	0	0	0	6	0	2	4	0	
Tate	0	0	0	0	0	0	0	0	0	0	0	
Tippah	0	0	0	0	0	0	0	0	0	0	0	
Tishomingo	0	0	0	0	0	0	0	0	0	0	0	
Tunica	0	0	0	0	0	0	0	0	0	0	0	
Union	0	0	0	0	0	0	0	0	0	0	0	
Walthall	0	0	0	0	0	0	0	0	0	0	0	
Warren	5	0	3	2	0	0	3	2	2	3	0	
Washington	2	1	1	0	0	0	1	1	0	2	0	
Wayne	1	0	0	1	0	0	1	0	1	0	0	
Webster	0	0	0	0	0	0	0	0	0	0	0	
Wilkinson	0	0	0	0	0	0	0	0	0	0	0	
Winston	0	0	0	0	0	0	0	0	0	0	0	

TABLE 25-3. (Continued)

County	Total Waivers	Age				Sex			Race		
		0-15	16	17	18+	Unknown	Male	Female	White	Minor-	Unknown
Yalobusha	0	0	0	0	0	0	0	0	0	0	0
Yazoo	1	1	0	0	0	0	1	0	0	1	0
State Total	295	48	66	175	3	4	254	41	87	195	13

* denotes Not Available.

Table 25-4 gives the categories of offenses for the 295 cases referred from juvenile to adult court which occurred in 40 Mississippi counties. Property offenses (burglary and other property) represented the largest offense category, with 46 percent (133). Examples of "other property" offenses were larceny, auto theft, trespassing, receiving stolen property, and forgery. Public order offenses, which included drug and liquor violations, disorderly conduct, prostitution, and malicious destruction accounted for 28 percent (81). Personal offenses (murder, manslaughter, rape, robbery, assaults, and other personal) represented 21 percent (61) of the Phase II judicial waiver totals. "Other personal" offenses included kidnapping, arson, sex offenses, and weapons violations. The "other general" category represented five percent (14) and included status offenses, traffic offenses, and offenses against the family, (also, see Figure 25-1).

TABLE 25-4. MISSISSIPPI: JUDICIAL WAIVERS TO ADULT COURTS (BY COUNTY AND BY TYPES OF OFFENSES) IN 1978

County	Total Waivers	Offenses[a]										
		Murder/ Manslaughter	Rape	Robbery	Assault/ Battery	Aggravated Assault	Other Personal	Burglary	Other Property	Public Order	Other General	Unknown
Adams	23	1	1	0	1	1	0	3	4	7	5	0
Amite	1	0	0	0	0	0	0	0	1	0	0	0
Attala	1	0	0	0	0	1	0	0	0	0	0	0
Bolivar	13	0	5	0	0	1	0	5	2	0	0	0
Chickasaw	2	0	0	0	0	0	0	0	0	2	0	0
De Soto	2	0	0	0	1	0	0	0	1	0	0	0
Forrest	1	0	0	0	0	0	0	0	0	1	0	0
George	1	0	0	0	0	0	0	1	0	0	0	0
Grenada	5	0	0	0	0	0	0	2	0	3	0	0
Harrison	5	*	*	*	*	*	*	*	2	*	*	3
Hinds	39	0	0	4	8	5	0	8	9	5	0	0
Holmes	6	0	0	0	0	0	0	0	0	6	0	0
Humphreys	2	0	0	0	0	0	0	0	2	0	0	0
Itawamba	2	0	0	0	0	0	0	0	0	2	0	0
Jackson	7	0	0	1	0	0	1	2	2	1	0	0

TABLE 25-4. (Continued)

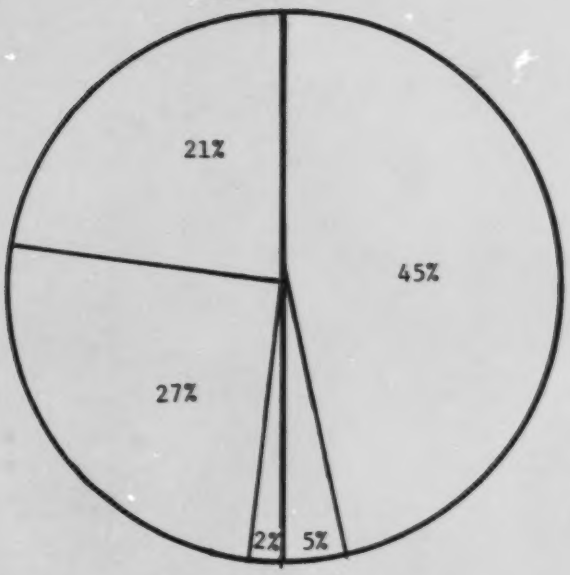
County	Total Waivers	Offenses[a]										
		Murder/ Man-slaughter	Rape	Rob-bery	As-sault/ Bat-tery	Aggra-vated As-sault	Other Per-sonal	Bur-glary	Other Prop-erty	Public Order	Other General	Unknown
Jones	36	*	*	*	3	1	*	*	2	27	2	1
Kemper	2	0	0	0	0	0	0	0	2	0	0	0
Lafayette	1	0	0	0	0	0	0	1	0	0	0	0
Lauderdale	12	0	0	2	0	0	0	0	2	8	0	0
Lee	5	0	0	0	0	0	0	2	3	0	0	0
Lowndes	7	0	0	0	1	0	0	2	0	0	4	0
Madison	10	0	0	0	0	1	0	3	2	4	0	0
Marion	1	0	0	0	0	0	0	0	0	1	0	0
Marshall	1	0	0	0	0	0	0	0	1	0	0	0
Monroe	4	0	0	1	0	0	0	1	1	1	0	0
Montgomery	5	0	0	0	0	0	0	1	3	1	0	0
Neshoba	7	1	1	1	0	2	0	0	1	1	0	0
Oktibbeha	1	0	0	0	0	1	0	0	0	0	0	0
Panola	1	0	0	0	0	0	0	0	1	0	0	0
Pearl River	7	0	0	0	1	0	0	2	1	2	1	0
Pike	1	0	0	0	0	0	0	1	0	0	0	0
Quitman	2	0	0	0	0	0	0	2	0	0	0	0
Rankin	10	1	0	0	2	0	0	4	3	0	0	0
Sharkey	1	0	0	0	0	0	0	1	0	0	0	0
Sunflower	56	*	1	1	4	*	3	8	28	7	2	2
Tallahatchie	6	0	0	0	0	2	0	2	2	0	0	0
Warren	6	0	0	0	0	0	0	0	4	1	0	0
Washington	2	0	0	0	0	0	0	1	0	1	0	0
Wayne	1	0	0	0	0	0	0	1	0	0	0	0
Yazoo	1	0	0	0	0	0	0	0	1	0	0	0
State Total	295	3	8	10	21	15	4	53	80	81	14	6

* denotes Not Available.

a. Only most serious offense per individual listed.

Figure 25-1 portrays charges reported for the 295 judicial waiver according to personal, property, public order, other general, and unknown offenses. Only two percent of offenses were unknown. The large proportion of property offenses is easily observed in the figure, showing that they accounted for 45 percent of all known charges. Personal offenses accounted for 21 percent of known charges, and 27 percent were in the public order category.

FIGURE 25-1. MISSISSIPPI: PERCENTAGE OF JUDICIAL WAIVERS TO ADULT COURTS (BY OFFENSE CATEGORY) IN 1978



Offenses[a]	
Personal	21%
Property	45%
Public Order	27%
Other General	5%
Unknown	2%

N= 295

a. Violent offenses (murder/manslaughter, rape, robbery, and aggravated assault) represent 12 percent of all offenses in the state.

The remaining tables in this section on youth judicially waived to adult court present data that were collected in the local survey of 21 counties meeting Phase II selection criteria. The counties that were surveyed accounted for 267, or 91 percent, of the 295 cases that were reported by the Department of Public Welfare.

Table 25-5 describes the disposition of the 267 cases judicially waived to adult courts only in the 21 counties surveyed. Ninety-two percent, or 239, of the 259 cases where dispositions are known resulted in guilty findings. Again based on 259 known cases, the table indicates that only 14 cases were dismissed (five percent), and one youth was found not guilty. The five cases in the "other" category were reported to have been held open or continued.

TABLE 25-5. MISSISSIPPI: JUDICIAL WAIVERS TO ADULT COURTS IN PHASE II COUNTIES (BY COUNTY AND BY JUDGMENTS IN ADULT COURTS) IN 1978

County	Total Waivers	Judgments				
		Not Guilty	Dismissed	Guilty	Other[a]	Unknown
Adams	23	0	0	23	0	0
Bolivar	13	*	*	8	*	5
Forrest	1	*	*	*	*	1
Grenada	5	0	1	4	0	0
Harrison	5	0	0	5	0	0
Hinds	39	0	6	33	0	0
Holmes	6	0	0	6 est	0	0
Jackson	7	0	0	5	2	0
Jones	36	0	0	35 est	1 est	0
Lauderdale	12	0	2	10	0	0
Lee	5	0	0	4	1	0
Lowndes	7	0	0	6	1	0
Madison	10	0	0	10 est	0	0
Montgomery	5	1	1	3	0	0
Neshoba	7	0	4	3	0	0
Pearl River	7	0	0	7	0	0
Rankin	10	0	0	10	0	0
Sunflower	56	0	0	56	0	0
Tallahatchie	6	0	0	6	0	0
Warren	5	0	0	5	0	0

TABLE 25-5. (Continued)

County	Total Waivers	Judgments				
		Not Guilty	Dismissed	Guilty	Other[a]	Unknown
Washington	2	*	*	*	*	2
State Phase II Total	267	1	14	239	5	8

* denotes Not Available.

a. Primarily cases held open or pending.

Table 25-6 gives the sentence types for juveniles found guilty. Out of 239, fines were assessed for 104 (44 percent) and 71 youth (30 percent) received probation. Twenty-seven percent (64) were sentenced to incarceration; these were evenly divided between jail and state adult corrections.

TABLE 25-6. MISSISSIPPI: SENTENCES REPORTED FOR CONVICTIONS ARISING FROM JUDICIAL WAIVER TO ADULT COURTS IN PHASE II COUNTIES (BY COUNTY AND SENTENCE TYPE) IN 1978

County	Total Convictions	Sentence Types					
		Fined	Probation	Jail	State Adult Corrections Facilities	State Juvenile Corrections Facilities	Other
Adams	23	16	2 est	3 est	2	0	0
Bolivar	8	0	1	1	6	0	0
Grenada	4	0	3	0	1	0	0
Harrison	5	2	0	0	3	0	0
Hinds	33	0	28	0	5	0	0
Holmes	6	6 est	0	0	0	0	0
Jackson	5	1	0	0	4	0	0
Jones	35	23 est	11 est	1 est	0	0	0
Lauderdale	10	7	2	1	0	0	0
Lee	4	0	0	2	2	0	0

TABLE 25-6. (Continued)

County	Total Convictions	Sentence Types					
		Fined	Probation	Jail	State Adult Corrections Facilities	State Juvenile Corrections Facilities	Other
Lowndes	6	0	5	0	1	0	0
Madison	10	4 est	1 est	5 est	0	0	0
Montgomery	3	0	1	2	0	0	0
Neshoba	3	1	0	0	2	0	0
Pearl River	7	4	1 est	2 est	0	0	0
Rankin	10	4	5 est	1 est	0	0	0
Sunflower	56	30	10	10	6	0	0
Tallahatchie	6	2	0	4	0	0	0
Warren	5	4	1	0	0	0	0
State Phase II Total	239	104	71	32	32	0	0

Table 25-7 shows the length of maximum sentences imposed in the 64 cases receiving incarceration. Of the 50 known sentences, 44 percent received sentences of one year or less. Twenty-six percent (13) received maximum terms of one to three years. Ten percent (five) were given terms of three to five years, and six (12 percent) received terms of five to ten years. Eight percent (four) were sentenced to over ten years, with one individual receiving a life sentence.

TABLE 25-7. MISSISSIPPI LENGTH OF CONFINEMENT REPORTED FOR SENTENCES ARISING FROM JUDICIAL WAIVER TO ADULT COURTS IN REPORTING PHASE II COUNTIES (BY COUNTY AND MAXIMUM SENTENCE) IN 1978

County	Total Confinements	Sentence Maximums: One Year or Less	One+ to 3 Years	3+ to 5 Years	5+ to 10 Years	Over 10 Years	Indeterminate	Life	Death	Unknown
Adams	5	3 est	0	0	0	1	0	1	0	0
Bolivar	7	0	2	3	1	1	0	0	0	0
Grenada	1	0	1	0	0	0	0	0	0	0
Harrison	3	0	0	0	3	0	0	0	0	0
Hinds	5	0	5	0	0	0	0	0	0	0
Jackson	4	*	*	*	*	*	*	*	*	4
Jones	1	1 est	0	0	0	0	0	0	0	0
Lauderdale	1	1	0	0	0	0	0	0	0	0
Lee	4	0	2	0	1	1	0	0	0	0
Lowndes	1	0	0	1	0	0	0	0	0	0
Madison	5	5 est	0	0	0	0	0	0	0	0
Montgomery	2	2	0	0	0	0	0	0	0	0
Neshoba	2	0	1	0	1	0	0	0	0	0
Pearl River	2	2 est	0	0	0	0	0	0	0	0
Rankin	1	0	0	1	0	0	0	0	0	0
Sunflower	16[a]	4 est	2 est	*	*	*	*	*	*	10
Tallahatchie	4	4	0	0	0	0	0	0	0	0
State Phase II Total	64	22	13	5	6	3	0	1	0	14

* denotes Not Available.

a. Information on the ten youth sentenced to jail was not available.

Excluded Offenses

This section reports findings from the local survey of adult courts on youth tried because of excluded offenses. As described earlier, these data were only gathered in the 21 counties surveyed according to Phase II collection criteria for judicial waiver information.

Table 25-8 contains a demographic breakdown describing the age, sex, and race of youth tried in adult courts due to excluded offenses in the counties that were contacted. A considerable proportion of this information on the 13 cases that were reported was unavailable to the survey. Probably the clearest indication given by the data is that at least six of these youth were males belonging to a minority group. The ages of nine of the 13 youth were unknown.

TABLE 25-8. MISSISSIPPI: JUVENILE REFERRALS TO ADULT COURTS IN PHASE II COUNTIES DUE TO EXCLUDED OFFENSES (BY COUNTY AND BY AGE, SEX, AND RACE) IN 1978

County	Total Referrals	Age				Sex			Race		
		0-15	16	17	Unknown	Male	Female	Unknown	White	Minority	Unknown
Adams	2	0	0	2	0	2	0	0	0	2	0
Bolivar	0	0	0	0	0	0	0	0	0	0	0
Forrest	0	0	0	0	0	0	0	0	0	0	0
Grenada	0 est	0	0	0	0	0	0	0	0	0	0
Harrison	3 est	*	*	*	3 est	*	*	3 est	*	*	3 est
Hinds	0 est	0	0	0	0	0	0	0	0	0	0
Holmes	0	0	0	0	0	0	0	0	0	0	0
Jackson	*	*	*	*	*	*	*	*	*	*	*
Jones	*	*	*	*	*	*	*	*	*	*	*
Lauderdale	0	0	0	0	0	0	0	0	0	0	0
Lee	1	0	1	0	0	1	0	0	0	1	0
Lowndes	0 est	0	0	0	0	0	0	0	0	0	0
Madison	0	0	0	0	0	0	0	0	0	0	0
Montgomery	0	0	0	0	0	0	0	0	0	0	0
Neshoba	0	0	0	0	0	0	0	0	0	0	0
Pearl River	2	*	*	*	2	2	0	0	0	2	0
Rankin	1	0	0	1	0	1	0	0	0	1	0
Sunflower	*	*	*	*	*	*	*	*	*	*	*
Tallahatchie	*	*	*	*	*	*	*	*	*	*	*
Warren	0	0	0	0	0	0	0	0	0	0	0
Washington	4	*	*	*	4	*	*	4	*	*	4
State Phase II Total	13	0	1	3	9	6	0	7	0	6	7

* denotes Not Available.

Recalling that excluded offenses are those which bring capital punishment or life imprisonment, it is not surprising to see in Table 25-9 that all 13 reported cases were for serious crimes against persons. Nine of the cases were for robbery, with the remaining four evenly split between murder and rape.

TABLE 25-9. MISSISSIPPI: JUVENILE REFERRALS TO ADULT COURTS IN REPORTING PHASE II COUNTIES DUE TO EXCLUDED OFFENSES (BY COUNTY AND BY TYPES OF OFFENSES) IN 1978

County	Total Referrals	Offenses[a]									
		Murder/ Man-slaugh-ter	Rape	Rob-bery	As-sault/ Bat-tery	Aggra-vated As-sault	Other Per-sonal	Bur-glary	Other Prop-erty	Public Order	Other General
Adams	2	1	1	0	0	0	0	0	0	0	0
Harrison	3 est	0	0	3 est	0	0	0	0	0	0	0
Lee	1	0	1	0	0	0	0	0	0	0	0
Pearl River	2	0	0	2	0	0	0	0	0	0	0
Rankin	1	1	0	0	0	0	0	0	0	0	0
Washington	4	0	0	4	0	0	0	0	0	0	0
State Phase II Total	13	2	2	9	0	0	0	0	0	0	0

In summary, the state reported that 295 youth were judicially waived in 1978, which results in a rate of 6.4 youth per 10,000 juvenile population. Sixty percent of these youth were 17 years of age and 86 percent of them were males. Minority youth outnumbered white youth in waivers by a ratio of more than two to one. Forty-five percent of all charges were property offenses, and personal offenses accounted for 21 percent of the charges. Table 25-10 indicates that 239 judicial waiver cases resulted in convictions. It is important to note that this figure is based on the 267 waiver cases reported in the local survey of 21 counties, and not on the 295 statewide total reported by the Department of Public Welfare. Forty-four percent of these convicted youth received fines, and 30 percent were placed on probation. The remaining 27 percent, or 64 youth, were sentenced to incarceration. Table 25-10 also indicates that 13 youth were tried in adult court in the 21 counties that were surveyed, and that available Phase II information was collected for all of these cases. While sentencing and confinement practices were not reported, it was made clear by local contacts that all of these cases were the result of personal offenses subject to capital punishment or life imprisonment.

TABLE 25-10. MISSISSIPPI: SUMMARY OF TABLES
(BY LEGAL MECHANISM)

	Judicial Waiver[a]	Excluded Offenses[b]
Total Referrals to Adult Courts in 1978 (Table 25-1)	295	*
Total Referrals Selected for Phase II (Tables 25-3 and 25-8)	295	13
Total Referrals Resulting in Convictions (Table 25-5)	239	*
Total Convictions Resulting in Sentences of Confinement (Table 25-6)	64	*

* denotes Not Available.

a. Total referrals and some Phase II information were provided by state sources. Referrals resulting in convictions and confinements are based on a local survey of 21 counties reporting a total of 267 judicial waivers.

b. Excluded offense data are based on a survey of 21 counties which were selected and contacted in the course of collecting Phase II judicial waiver data.

FOOTNOTES

1. Mississippi Code Annotated, Section 43-21-3.
2. Mississippi Code Annotated, Section 43-21-5 (replaced by Section 43-21-105 in 1979).
3. Mississippi Code Annotated, Section 43-21-31.
4. Mississippi Code Annotated, Section 43-21-33.
5. Ibid.
6. Mississippi Code Annotated, Section 43-21-31.
7. Mississippi Code Annotated, Section 43-21-33.
8. Mississippi Code Annotated, Section 43-21-159 (1980).
9. Mississippi Code Annotated, Section 43-21-157.
10. Mississippi Code Annotated, Section 43-21-157(1).
11. Mississippi Code Annotated, Section 43-21-157(8).
12. Mississippi Code Annotated, Section 43-21-157(5).
13. Bullock v. Harpole, 102 So.2d 687 (1958).
14. Davis v. State, 204 So.2d 270 (1967); rev'd 394 U.S. 1 (1969).
15. Smith v. State, 229 So.2d 551 (1969); Bell v. State, 353 So.2d 1141 (1977).
16. Grant v. State, 305 So.2d 351 (1974).
17. Jackson v. State, 311 So.2d 658 (1975).
18. Carter v. State, 334 So.3d 376 (1976).
19. Hopkins v. State, 209 So.2d 841 (1968).
20. Butler v. State, 217 So.2d 525 (1969).
21. Hammons v. State, 291 So.2d 177 (1974).
22. Walker v. State, 235 So.2d 714 (1970)
23. In the Interest of Watkins, 324 So.2d 232 (1975).
24. Walls v. State, 326 So.2d 322 (1976).

MISSOURI PROFILE

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METHODOLOGY

The data for juvenile waivers in Missouri were collected by the National Juvenile Law Center. Primary contacts were made with the juvenile division of the circuit court in each county for frequency (Phase I) data on judicial waivers in 1978. This information was available in every county. Frequency data were also requested and provided from the juvenile division of circuit courts on 16-year-olds referred to adult courts for routine traffic violations. Phase II data on age, sex, race, offenses, dispositions, and criminal court sentences of youth judicially waived were gathered from the most populous ten percent of the counties in the state and counties that reported five or more waivers in 1978. Phase II information on routine traffic cases was not requested.

Information regarding misdemeanors, felonies, and traffic offenses committed by 17 year olds subject to prosecution in adult courts due to lower age of criminal jurisdiction were initially sought from local sources. Prosecutors and criminal court personnel were asked in every county for the number of 17 year olds charged with felonies during 1978. Very few counties were able to provide data other than gross estimates. Phase I frequency data and some Phase II data (offenses) on felony arrest cases only were then obtained from the uniform crime reporting agency, the Missouri State Highway Patrol, Department of Public Safety. The felony arrest data were compiled from reports from 80 percent of the law enforcement agencies in the state. State sources reported that almost all felony arrests result in court filings in Missouri. Data on 17 year olds arrested for misdemeanors and traffic violations were not available from either state or local sources.

COURT ORGANIZATION

The highest courts of general jurisdiction in Missouri are the circuit courts. There are 43 circuits, with 115 circuit court judges presiding in 116 locations. There are a number of courts with jurisdiction over misdemeanors, traffic, and municipal ordinance violations. There are 129 magistrate courts in Missouri, each of the 114 counties having at least one such court, with jurisdiction over misdemeanors and traffic offenses. The municipal and police courts, in 450 locations, and the St. Louis Court of Criminal Correction have jurisdiction over misdemeanors as well as traffic and municipal (city) ordinance violations.

In 1978, juvenile jurisdiction in Missouri was generally held by the juvenile divisions of the circuit courts located in each county. However, the Hannibal Court of Common Pleas had concurrent jurisdiction with the Tenth Circuit Court over juvenile matters as well as all criminal matters. The juvenile divisions of circuit courts and the Hannibal Court of Common Pleas, hereafter referred to as juvenile courts, had jurisdiction over juveniles for all offenses. In 1978 this jurisdiction included routine traffic violations.

Effective January 2, 1979, in all judicial circuits of the state, the circuit judges were vested with the power to designate by local circuit court rule, and concurred in by a majority of those judges, the divisions which would be juvenile courts and the classes of cases that would be assigned to each. They were also given the power to amend that rule from time to time as, in the judgment of a majority of the judges, they feel will best serve the public interest.[1]

In 1980, the routine juvenile traffic offenses were excluded from the jurisdiction of the juvenile courts.[2]

An overview of Missouri's courts by their jurisdiction over juveniles appears below.

MISSOURI: COURT JURISDICTION OVER JUVENILES IN 1978

General Juvenile Jurisdiction	Jurisdiction over Transferred Juveniles	Juvenile Traffic
Juvenile Divisions of Circuit Courts Hannibal Court of Common Pleas[a]	Adult Divisions of Circuit Courts St. Louis Court of Criminal Correction Hannibal Court of Common Pleas Magistrate Courts Municipal Courts Police Courts	Juvenile Divisions of Circuit Courts Hannibal Court of Common Pleas[a]

a. The Hannibal Court of Common Pleas has concurrent jurisdiction with the 10th Circuit Court over juvenile matters and all criminal matters.

TRANSFER PROCESS

In Missouri, the initial age of juvenile court jurisdiction extends to 17 years of age.[3] There are two ways individuals under 18 can be tried in adult courts: judicial waiver and the lower age of criminal jurisdiction.

Judicial Waiver

Youth 14 to 17 years old at the time of the alleged offense and charged with a felony or a state or municipal traffic or ordinance violation may be judicially waived to adult courts after a hearing in juvenile courts.[4] Additionally, individuals between the ages of 17 and 21 who are under the jurisdiction of the juvenile courts due to a juvenile court proceeding which occurred before the youth became 17 years of age, and who are subsequently charged with any other offense, may also be judicially waived to adult courts.

Youth may be judicially waived if the determination is made that they are not proper subjects to be dealt with under juvenile laws. In reaching a decision, the courts must consider (but are not limited to considering):

(1) Whether the offense involved viciousness, force, or violence.

(2) Whether the offense was part of a repetitive pattern of offenses which may indicate that the juvenile is beyond rehabilitation under the juvenile code.

(3) The juvenile's record.

(4) The programs and facilities available to the juvenile courts.

The waiver process may be initiated by the youth, the courts' juvenile officers, or the custodian.[5] State authorities indicated that in 1978 there were no provisions allowing transfer back to the juvenile session from the adult courts.

Effective 1980, all nonfelony traffic offenses were excluded from original juvenile court jurisdiction.

Lower Age of Criminal Jurisdiction

Youth 17 years old are routinely handled as adults in Missouri. These persons are subject to the same court procedures and dispositional alternatives as persons 18 years old or older and are discussed in a separate section of the data summary which appears later in this profile.

CASE LAW SUMMARY

Since 1950, the Missouri Supreme Court has ruled several times on issues related to the state's waiver statute. In State v. Falbo, the court rejected the defendant's contention that the transfer from adult to juvenile court for the purpose of providing juvenile court with the opportunity to retain or waive jurisdiction did not constitute a final determination as to the proper forum.[6] The defendant had maintained that the juvenile court erred by subsequently waiving jurisdiction, since the adult court's transfer did constitute a final forum determination. The court held that the juvenile court properly transferred the case pursuant to the state's waiver provision. Five years later, the court held, in State v. Reid, that where circuit courts had general and juvenile jurisdiction, and delinquency proceedings were not instituted or requested prior to the institution of a criminal prosecution, the circuit court properly exercised criminal jurisdiction over the defendant who was less than 17 years of age.[7] However, in State v. Arbeiter, the court, after characterizing juvenile court's jurisdiction as "exclusive," held that the police had violated state law by not taking the defendant immediately to the juvenile court.[8] Therefore, the court held inadmissible the statements made by the defendant to the police during this unlawful delay.

The court held, in State v. Brown, that circuit, not juvenile, courts had jurisdiction over an individual who allegedly committed a crime on his 17th birthday.[9] Further, in State v. Goff, the court held that circuit courts had jurisdiction over a 15 year old inmate of the then-Department of Corrections who was charged with escape.[10] In addition, in Russell v. State, the court held that an individual must be under the age of 17 at the time of the commission of the offense in order to be subject to the juvenile code. Finally, in State v. Ford, the court held that the only thing that juvenile courts can do to facilitate a criminal prosecution is to relinquish its jurisdiction, since it cannot institute criminal proceedings.[12]

In State ex rel. Arbeiter v. Reagan, the Missouri Supreme Court held that the transfer of a youth to adult court vests the latter with the authority to open the youth's juvenile records and files for inspection by a person having a legitimate interest.[13] In Jefferson v. State, the court held that the 15 year old defendant had waived any defects in the juvenile court proceedings by not requesting a transfer to juvenile court and by entering a plea of guilty in circuit court.[14] The Missouri waiver statute withstood attacks on constitutional grounds in Coney v. State and State v. Thompson.[15] The due process requirements of Kent v. United States were incorporated into Missouri law in State ex rel. T.G.H. v. Bills.[16] Finally, in In the Interest of A.D.R., the court held that a waiver order is not a final, appealable order.[17]

The Missouri Supreme Court held, in State v. Taylor, that a 17 year old could make a valid waiver of his constitutional right to counsel at a lineup.[18] Lastly, the court held, in State v. McMillan, that a juvenile need not be warned of the possibility of waiver prior to questioning.[19]

CORRECTIONS INFORMATION

The Department of Social Services is responsible for Missouri's corrections system. The DSS Division of Corrections is responsible for adult facilities.

Juveniles tried in juvenile courts are the responsibility of the DSS Division of Youth Services. They may be sent to a variety of community placements, from foster homes to group homes, or to juvenile training schools.

The Division of Corrections maintains separate corrections facilities for young adult offenders who have been convicted of a felony. These facilities house individuals from 17 to 25 years of age and also are used for the placement of individuals 14, 15, or 16 years old who have been convicted as adults.

State authorities indicate that once individuals have been tried as adults, there is no procedure to administratively transfer them to juvenile facilities.[20] There is also no provision for a juvenile delinquent to be administratively transferred to an adult corrections facility.

STATE DATA SUMMARY

In Missouri, only juveniles 14, 15, or 16 years old charged with an offense which would be a felony if committed by an adult or a state or municipal traffic or ordinance violation may be waived to adult courts. Seventeen year olds are routinely tried in adult courts. However, youth 17 to 21 years old who are under the juvenile courts' jurisdiction due to a juvenile proceeding before they reach their 17 birthdays may be waived to adult courts for any offense.

Table 26-1 displays the available frequency (Phase I) data regarding youth who were judicially waived for felonies in 1978 and 17 year olds who were arrested and subjected to prosecution in adult courts due to the lower age of criminal jurisdiction. It should be recalled from the Methodology section of this report that the frequency of age of jurisdiction cases for misdemeanors and traffic violations were not available. In addition, the reported cases of judicial waivers for traffic offenses have not been included in Table 26-1, with the exception of St. Louis County. Data on the remainder of the judicial waivers for traffic offenses will be presented in a separate section of this profile.

Recalling these data limitations, it can be seen in Table 26-1 that in 1978 there were 197 judicial waivers in Missouri. Seventy-one of the 115 local jurisdictions (St. Louis is an independent city), or 62 percent, reported no judicial waivers of juveniles for felonies in 1978. Four or fewer judicial waivers were reported by 39 counties, with the five other jurisdictions reporting 66 percent (130) of the total waivers. It should be noted that St. Louis County's incidence includes 21 waivers due to traffic offenses. However, excluding these 21 cases, St. Louis County and the City of St. Louis still have much greater frequencies of waiver (49 and 37 cases) then the other jurisdictions. Much higher rates of waiver per 10,000 juveniles were found in significantly lower population areas than these two metropolitan jurisdictions, including Carroll, Warren, Christian, and Grundy Counties.

The age of jurisdiction felony arrests shown in Table 26-1 are reflective of the 58 local jurisdictions which were available from Missouri's uniform crime reporting agency. As mentioned in the Methodology section of this profile, only 80 percent of the local law enforcement agencies reported data to this state office. If there were no felony arrests of 17 year olds, the state records would not reflect zero (0) incidence. Therefore, of the 57 counties (50 percent) in Table 26-1 for which data is noted to be not available, at least 35 reported no incidence of felony arrests of 17 year olds. It is impossible to identify these counties with an incidence of zero from the aggregated data.

Table 26-1 shows the available breakdown by county for the 2,263 felony arrests involving 17 year olds routinely subject to prosecution in adult courts in Missouri (hereafter called "age of jurisdiction" arrests). The 58 local jurisdictions for which data were available included 85 percent of the state's juvenile population. Among the jurisdictions for which data were

available, the larger counties tended to have higher arrest rates of 17 year olds per 10,000 juvenile population than did the smaller counties. For example, 63 percent of the cases came from the three largest local jurisdictions (Jackson County, St. Louis County, and the City of St. Louis) which together included 45 percent of the juvenile population.

TABLE 26-1. MISSOURI: REFERRALS OF JUVENILES TO ADULT COURTS IN 1978 (BY COUNTY, RATE, AND LEGAL MECHANISM)

County	Juvenile Population (Ages 8-17)[a]	Judicial Waiver		Age of Jurisdiction	
		Cases	Rate[b]	Arrests[c]	Rate[b]
Adair	2,996	2	6.676	*	*
Andrew	2,452	0	0.000	6	24.470
Atchison	1,334	0	0.000	*	*
Audrain	4,626	4 est	8.647	*	*
Barry	3,418	0	0.000	*	*
Barton	1,618	0	0.000	3	18.541
Bates	2,697	2 est	7.416	*	*
Benton	1,698	0	0.000	*	*
Bollinger	1,629	0	0.000	6	36.832
Boone	12,156	7 est[d]	5.758	63	51.826
Buchanan	15,285	0	0.000	18	11.776
Butler	6,145	1	1.627	18	29.292
Caldwell	1,452	0	0.000	*	*
Callaway	4,671	4 est	8.563	3	6.423
Camden	2,433	0	0.000	6	24.661
Cape Girardeau	7,859	1	1.272	48	61.076
Carroll	1,895	3 est	15.831	*	*
Carter	863	0	0.000	*	*
Cass	9,492	1 est	1.054	15	15.803
Cedar	1,681	0	0.000	*	*
Chariton	1,669	1	5.992	3	17.975
Christian	3,401	4 est	11.761	3	8.821
Clark	1,516	0 est	0.000	*	*
Clay	24,502	2	0.816	36	14.693
Clinton	2,562	0	0.000	*	*
Cole	8,550	3	3.509	33	38.596
Cooper	2,373	2 est	8.428	*	*
Crawford	2,840	1	3.521	3	10.563
Dade	1,074	0	0.000	6	55.866
Dallas	1,917	0	0.000	*	*

TABLE 26-1. (Continued)

County	Juvenile Population (Ages 8-17)[a]	Judicial Waiver Cases	Judicial Waiver Rate[b]	Age of Jurisdiction Arrests[c]	Age of Jurisdiction Rate[b]
Daviess	1,395	1	7.168	3	21.505
De Kalb	1,330	0	0.000	*	*
Dent	2,276	0	0.000	*	*
Douglas	1,940	1	5.155	3	15.464
Dunklin	6,654	0	0.000	9	13.526
Franklin	12,766	0	0.000	49	38.383
Gasconade	1,867	0	0.000	*	*
Gentry	1,199	0	0.000	*	*
Greene	26,320	0	0.000	72	27.356
Grundy	1,713	2	11.675	3	17.513
Harrison	1,563	0	0.000	9	57.582
Henry	3,197	2 est	6.256	12	37.535
Hickory	810	0	0.000	*	*
Holt	997	0	0.000	*	*
Howard	1,569	0	0.000	*	*
Howell	4,405	0	0.000	9	20.431
Iron	1,818	0	0.000	*	*
Jackson	108,085	8	0.740	432	39.969
Jasper	13,405	8	5.968	96	71.615
Jefferson	24,777	1	0.404	40	16.144
Johnson	4,713	1 est	2.122	3	6.365
Knox	935	0	0.000	*	*
Laclede	3,861	0	0.000	15	38.850
Lafayette	4,865	0	0.000	3	6.166
Lawrence	4,348	0	0.000	12	27.599
Lewis	1,909	0	0.000	*	*
Lincoln	3,744	0	0.000	3	8.013
Linn	2,201	2	9.087	*	*
Livingston	2,460	0	0.000	3	12.195
McDonald	2,879	0	0.000	*	*
Macon	2,405	0	0.000	18	74.844
Madison	1,510	1	6.623	*	*
Maries	1,231	0	0.000	*	*
Marion	4,778	2 est	4.186	3	6.279
Mercer	643	0	0.000	*	*

TABLE 26-1. (Continued)

County	Juvenile Population (Ages 8-17)[a]	Judicial Waiver		Age of Jurisdiction	
		Cases	Rate[b]	Arrests[c]	Rate[b]
Miller	2,699	0	0.000	*	*
Mississippi	3,234	0	0.000	*	*
Moniteau	2,032	0	0.000	*	*
Monroe	1,683	0	0.000	3	17.825
Montgomery	2,127	2 est	9.403	6	28.209
Morgan	2,065	0	0.000	3	*
New Madrid	4,842	0	0.000	3	6.195
Newton	6,060	0	0.000	12	19.802
Nodaway	2,946	2	6.789	3	10.183
Oregon	1,681	0	0.000	*	*
Osage	2,333	0	0.000	*	*
Ozark	1,025	0	0.000	*	*
Pemiscot	5,198	1	1.924	12	23.086
Perry	2,666	0	0.000	3	11.253
Pettis	5,547	1	1.803	9	16.766
Phelps	5,368	1	1.863	27	50.298
Pike	3,130	0	0.000	*	*
Platte	7,439	3 est	4.033	36	48.394
Polk	2,749	1 est	3.638	*	*
Pulaski	5,272	0	0.000	*	*
Putnam	880	0	0.000	*	*
Ralls	1,468	0	0.000	*	*
Randolph	3,643	0	0.000	6	16.470
Ray	3,672	0	0.000	*	*
Reynolds	1,249	0	0.000	9	72.058
Ripley	2,256	0	0.000	*	*
St. Charles	24,743	0	0.000	39	15.762
St. Clair	1,366	1	7.321	*	*
St. Francois	6,781	1	1.475	15	22.121
Ste. Genevieve	2,820	0	0.000	3	10.638
St. Louis	174,841	70[e]	4.004	554	31.690
Saline	3,739	1	2.675	*	*
Schuyler	739	0	0.000	*	*
Scotland	935	0	0.000	*	*
Scott	6,735	0	0.000	6	8.909

TABLE 26-1. (Continued)

County	Juvenile Population (Ages 8-17)[a]	Judicial Waiver		Age of Jurisdiction	
		Cases	Rate[b]	Arrests[c]	Rate[b]
Shannon	1,429	0	0.000	*	*
Shelby	1,330	0	0.000	*	*
Stoddard	4,721	0	0.000	*	*
Stone	1,889	0	0.000	*	*
Sullivan	1,057	1	9.461	*	*
Taney	2,149	0	0.000	*	*
Texas	3,834	1	2.608	*	*
Vernon	2,941	1	3.400	6	20.401
Warren	2,363	3 est	12.696	3	12.696
Washington	3,342	0	0.000	*	*
Wayne	1,802	0	0.000	6	33.296
Webster	3,594	2 est	5.565	*	*
Worth	515	0	0.000	*	*
Wright	2,466	1	4.055	*	*
St. Louis City	85,145	37[d]	4.346	432	50.733
Total	821,912	197 est	2.397	2,263	32.228

* denotes Not Available.

a. 1978 population estimates were developed by the National Center for Juvenile Justice using data from two sources: the 1970 national census and the National Cancer Institute 1975 estimated aggregate census.

b. Rate per 10,000 juveniles eight to 17 years old (1978).

c. Felony arrest data provided by Missouri State Highway Patrol, Department of Public Safety. State sources estimated that the number of court filings approximates the number of arrests by about 100 percent.

d. Cases rather than individuals reported.

e. Includes 21 judicial waivers for traffic offenses.

Tables 26-2A and 26-2B reflect the relationship between Phase I and Phase II counties. As seen in Table 26-2A, 12 Missouri local jurisdictions were Phase II judicial waiver counties due to population size; five of these reported over five judicial waivers as well, the other Phase II criteria. The 12 Phase II counties represented 64 percent of the total juvenile population and 68 percent of the total judicial waivers in Missouri. Four of the 12 Phase II counties reported no waivers in 1978. In Table 26-2B, Phase II data were collected on all available Phase I age of jurisdiction cases, which reflect 85 percent of the juvenile population and one-half of the local jurisdictions.

TABLE 26-2A. MISSOURI: RELATIONSHIP OF PHASE II COUNTIES TO ALL COUNTIES, BASED UPON 1978 POPULATION ESTIMATES AND JUDICIAL WAIVER DATA

	Juvenile Population (Ages 8-17)[a]	Number of Counties Judicial Waiver	Number of Referrals Judicial Waivers[b]
State	821,912	115	197
Selected for Phase II Investigation	529,884	12	134
Percentage of State Selected for Phase II Investigation	64%	10%	68%

a. 1978 population estimates were developed by the National Center for Juvenile Justice using data from two sources: the 1970 national census and the National Cancer Institute 1975 estimated aggregate census.

b. Includes 21 judicial waivers for traffic offenses in St. Louis County.

TABLE 26-2B. MISSOURI: RELATIONSHIP OF PHASE II COUNTIES TO ALL COUNTIES, BASED UPON 1978 POPULATION ESTIMATES AND AGE OF JURISDICTION DATA

	Juvenile Population (Ages 8-17)[a]	Number of Counties Age of Jurisdiction	Number of Arrests Age of Jurisdiction
State	821,912	115	*[b]
Selected for Phase II Investigation	701,109	57	2,263
Percentage of State Selected for Phase II Investigation	85%	50%	*

* Denotes Not Available.

a. 1978 population estimates were developed by the National Center for Juvenile Justice using data from two sources: the 1970 national census and the National Cancer Institute 1975 estimated aggregate census.

b. Statewide data, provided by the Missouri Highway Patrol, Department of Safety, only reported felony arrests of 17-year-olds for 57 counties. Of the remaining 58 counties, the state reported that 35 of them reported no felony arrests and the remaining 23 counties had not reported. However, the agency could not distinguish between these latter two groups of counties.

Judicial Waiver

This section contains a series of tables and a brief discussion pertaining to the Phase II information on Missouri youth judicially waived during 1978 for all allowable offenses except traffic violations in 11 of the 12 Phase II counties. Four of these counties, selected due to juvenile population, reported no incidence of judicial waiver, excluding traffic offense waivers. The other Phase II county, St. Louis County, could not separate the 21 judicial waivers due to traffic offenses from the Phase II responses, and, therefore, these 21 cases have been included in the following tables.

Table 26-3 gives a demographic breakdown--age, sex, race--of juveniles judicially waived in the Phase II counties. Where specific information was available, 57 percent (65) were 16 years of age. However, 35 (31 percent) were 17 years of age or older. It should be recalled from the Transfer Process section of this profile that youth between 17 and 21 years of age may be judicially waived if under the jurisdiction of the juvenile courts because of a prior proceeding before the 17th birthday and due to a subsequent offense. In addition, youth under 17 years of age at the time of the alleged offense, but over 17 when arrested, must be judicially waived in order to be tried as adults. Twelve percent (14) of the 114 cases where age was known were youth 14 or 15 years of age. In the 132 cases where sex information was available, 98 percent (130) were males. Eighty-one percent (62) of the cases where race was availalbe were white youth. All but one of the minority youth came from St. Louis County.

TABLE 26-3. MISSOURI: JUDICIAL WAIVERS TO ADULT COURTS IN PHASE II COUNTIES (BY COUNTY, AGE, SEX, AND RACE) IN 1978

County	Total Waivers	Age					Sex			Race		
		0-15	16	17	18+	Unknown	Male	Female	Unknown	White	Minority	Unknown
Boone[a]	7	0	7 est	0	0	0	7 est	0	0	6 est	1 est	0
Buchanan	0	0	0	0	0	0	0	0	0	0	0	0
Cape Girardeau	1	0	1	0	0	0	1	0	0	1	0	0
Clay	2	*	*	*	*	2	*	*	2	*	*	2
Franklin	0	0	0	0	0	0	0	0	0	0	0	0
Greene	0	0	0	0	0	0	0	0	0	0	0	0
Jackson	8	*	*	*	*	8	8	0	0	*	*	8
Jasper	8	0	8	0	0	0	8	0	0	8	0	0
Jefferson	1	0	1	0	0	0	1	0	0	1	0	0
St. Charles	0	0	0	0	0	0	0	0	0	0	0	0
St. Louis	70[b]	4	21	33	2	10	68	2	0	46	14	10
St. Louis City[a]	37	10 est	27 est	0	0	0	37	0	0	*	*	37
State Phase II Total	134	14	65	33	2	20	130	2	2	62	15	57

* denotes Not Available.

a. Cases rather than individuals reported.

b. Includes 21 judicial waivers for traffic offenses.

Table 26-4 shows that in the eight Phase II counties reporting waivers, 62 of the 122 known charges (51 percent) were crimes against the person--murder, manslaughter, rape, robbery, assaults, and other personal offenses. Thirty of the charges (25 percent) were property offenses--burglary, larceny, auto theft, receiving stolen property, fraud. All 21 of the "other general" offenses from St. Louis County were traffic offenses. Figure 26-1 graphically illustrates the percentages of these offense categories, including unknown offenses.

TABLE 26-4. MISSOURI: JUDICIAL WAIVERS TO ADULT COURTS IN PHASE II COUNTIES (BY COUNTY AND BY TYPES OF OFFENSES) IN 1978

County	Total Waivers	Offenses[a]										
		Murder/ Man-slaugh-ter	Rape	Rob-bery	As-sault/ Bat-tery	Aggra-vated As-sault	Other Per-sonal	Bur-glary	Other Prop-erty	Public Order	Other General	Unknown
Boone[b]	7	2	0	0	0	1 est	0	4 est	0	0	0	0
Cape Girardeau	1	0	0	1	0	0	0	0	0	0	0	0
Clay	2	*	*	*	*	*	*	*	*	*	*	2
Jackson	8	4	0	1	0	1	0	1	0	1	0	0
Jasper	8	0	0	0	0	0	0	6	2	0	0	0
Jefferson	1	0	0	1	0	0	0	0	0	0	0	0
St. Louis	70[c]	5	2	7	1	7	5	2	2	8	21	10
St. Louis City[b]	37	1	2	7	8	1	5	7	6	0	0	0
State Phase II Total	134	12	4	17	9	10	10	20	10	9	21	12

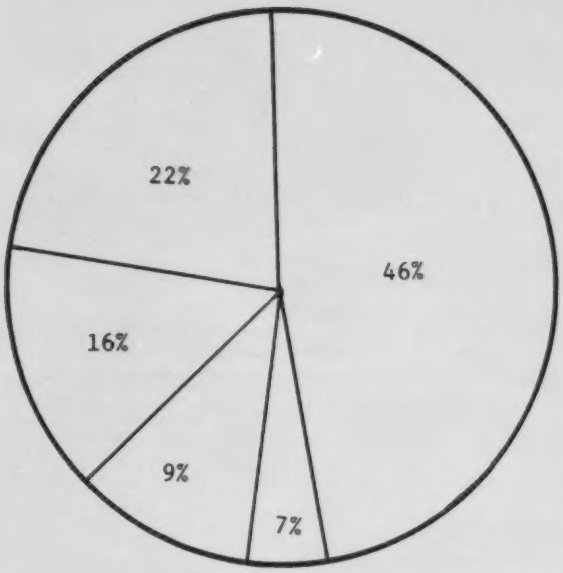
* denotes Not Available.

a. Only most serious offense per individual listed.

b. Cases rather than individuals reported

c. Includes 21 judicial waivers for traffic offenses.

FIGURE 26-1. MISSOURI: PERCENTAGE OF JUDICIAL WAIVERS TO ADULT COURTS IN PHASE II COUNTIES (BY OFFENSE CATEGORY) IN 1978



Offenses[a]	
Personal	46%
Property	22%
Public Order	7%
Other General	16%
Unknown	9%

N= 134

a. Violent offenses (murder/manslaughter, rape, robbery, and aggravated assault) represent 32 percent of all offenses in Phase II counties.

Table 26-5 shows the judgment data from the Phase II counties, four of which could not report any judgment data. For those cases in which information was available, 56 percent (ten) of the youth waived were found guilty, one was found not guilty, one had the charges dismissed, and one was reported to have been referred to juvenile court, although state sources had indicated there were no "waiver back" provisions in Missouri. In addition, five cases (28 percent) were held open or continued.

TABLE 26-5. MISSOURI: JUDICIAL WAIVERS TO ADULT COURTS IN PHASE II COUNTIES (BY COUNTY AND BY JUDGMENTS) IN 1978

County	Total Waivers	Judgments					
		Not Guilty	Dismissed	Referred to Juvenile Court	Guilty	Other[a]	Unknown
Boone[b]	7	*	*	*	*	*	7
Cape Girardeau	1	0	0	0	1	0	0
Clay	2	*	*	*	*	*	2
Jackson	8	1	1	1	2	3	0
Jasper	8	0	0	0	6	2	0
Jefferson	1	0	0	0	1	0	0
St. Louis	70[c]	*	*	*	*	*	70
St. Louis City[b]	37	*	*	*	*	*	37
State Phase II Total	134	1	1	1	10	5	116

* denotes Not Available.

a. Includes cases held open or continued.

b. Cases, not individuals, were reported.

c. Includes 21 judicial waivers for traffic offenses.

Table 26-6 shows the sentences of youth found guilty in reporting Phase II counties. Ninety percent (all but one) of those reported upon received probation. The one case receiving a confinement judgment is shown in Table 26-7, the maximum sentence duration being over one year and below three years in an adult corrections institution.

TABLE 26-6. MISSOURI: SENTENCES REPORTED FOR CONVICTIONS ARISING FROM JUDICIAL WAIVERS TO ADULT COURTS IN REPORTING PHASE II COUNTIES (BY COUNTY AND SENTENCE TYPE) IN 1978

County[a]	Total Convictions	Sentence Types				
		Fined	Probation	Jail	State Adult Corrections Facilities	Other
Cape Girardeau	1	0	1	0	0	0
Jackson	2	0	2	0	0	0
Jasper	6	0	6	0	0	0
Jefferson	1	0	0	0	1	0
State Phase II Total	10	0	9	0	1	0

a. Boone, Clay, and St. Louis Counties, and St. Louis City data were unavailable, the latter two jurisdictions reporting a large portion of the Phase II waivers.

TABLE 26-7. MISSOURI: LENGTH OF CONFINEMENT REPORTED FOR SENTENCES ARISING FROM JUDICIAL WAIVERS TO ADULT COURTS IN REPORTING PHASE II COUNTIES (BY COUNTY AND MAXIMUM SENTENCE) IN 1978

County[a]	Total Confinements	Sentence Maximums							
		One Year or Less	One+ to 3 Years	3+ to 5 Years	5+ to 10 Years	Over 10 Years	Indeterminate	Life	Death
Jefferson	1	0	1	0	0	0	0	0	0
State Phase II Total	1	0	1	0	0	0	0	0	0

a. Boone, Clay, and St. Louis Counties, and St. Louis City data were unavailable, the latter two jurisdictions reporting a large portion of the Phase II waivers.

Lower Age of Criminal Jurisdiction

This section contains a series of tables and a brief discussion pertaining to the Phase II information gathered about youth arrested and subject to prosecution in adult courts during 1978 due to the lower age of criminal court jurisdiction in Missouri. It should be recalled that the only data available from the state source were felony arrests in 58 of the 115 local jurisdictions.

Demographic data on sex and race were not available, but all youth were, obviously, 17 years of age when arrested for felonies in these 58 jurisdictions. Table 26-8 shows the felony arrest charges for the age of jurisdiction cases, by county. Sixty-three percent of the reported arrests came from the three largest jurisdictions (Jackson County, St. Louis County, and St. Louis City). Thirty-six percent (12) of the murder/manslaughter charges and 43 percent (111) of the robberies came from St. Louis City. Figure 26-2 graphically depicts these offense categories by percentage, for the reported upon counties.

Table 26-9 gives a more specific breakdown of the charges in the age of jurisdiction felony arrests. Forty-one percent of all charges were burglaries. Violent offenses represented 22 percent (507) of the state total of age of jurisdiction offenses; 50 percent of these were robbery charges. When grouped into four major offense categories, 30 percent were personal offenses, 65 percent were property offenses, and three percent were for destruction of property, obstructing justice, liquor violations, and other public order offenses. The "other general" category accounted for three percent and includes offenses such as being a fugitive, breaking jail/escaping custody, violation of federal statutes, and parole violations. All these offenses are felonies under Missouri law.

TABLE 26-8. MISSOURI: YOUTH ARRESTS AS ADULTS DUE TO AGE OF JURISDICTION (BY COUNTY AND TYPES OF OFFENSES) IN 1978

County	Total Arrests[b]	Offenses[a]										
		Murder/ Man-slaugh-ter	Rape	Rob-bery	As-sault/ Bat-tery	Aggra-vated As-sault	Other Per-sonal	Bur-glary	Other Pro-erty	Public Order	Other General[c]	Unknown
Adair	*	*	*	*	*	*	*	*	*	*	*	*
Andrew	6	0	0	0	0	0	0	3	3	0	0	0
Atchison	*	*	*	*	*	*	*	*	*	*	*	*
Audrain	*	*	*	*	*	*	*	*	*	*	*	*
Barry	*	*	*	*	*	*	*	*	*	*	*	*
Barton	3	0	0	0	0	0	0	0	3	0	0	0
Bates	*	*	*	*	*	*	*	*	*	*	*	*
Benton	*	*	*	*	*	*	*	*	*	*	*	*
Bollinger	6	0	3	0	0	3	0	0	0	0	0	0
Boone	63	3	0	9	0	6	9	18	18	0	0	0
Buchanan	18	0	0	0	0	0	0	9	6	0	3	0
Butler	18	0	0	0	0	0	9	3	6	0	0	0
Caldwell	*	*	*	*	*	*	*	*	*	*	*	*
Callaway	3	0	0	0	0	0	0	3	0	0	0	0
Camden	6	0	0	0	0	3	0	0	3	0	0	0
Cape Girardeau	48	0	0	0	0	0	3	39	6	0	0	0
Carroll	*	*	*	*	*	*	*	*	*	*	*	*
Carter	*	*	*	*	*	*	*	*	*	*	*	*
Cass	15	0	0	0	0	0	0	9	6	0	0	0
Cedar	*	*	*	*	*	*	*	*	*	*	*	*
Chariton	3	0	0	0	0	0	0	3	0	0	0	0
Christian	3	0	0	0	0	0	0	3	0	0	0	0
Clark	*	*	*	*	*	*	*	*	*	*	*	*
Clay	36	0	3	6	0	0	0	15	12	0	0	0
Clinton	*	*	*	*	*	*	*	*	*	*	*	*
Cole	33	0	0	0	0	0	0	18	15	0	0	0
Cooper	*	*	*	*	*	*	*	*	*	*	*	*
Crawford	3	0	0	0	0	3	0	0	0	0	0	0
Dade	6	0	0	0	0	0	0	6	0	0	0	0
Dallas	*	*	*	*	*	*	*	*	*	*	*	*
Daviess	3	0	0	0	0	3	0	0	0	0	0	0
De Kalb	*	*	*	*	*	*	*	*	*	*	*	*
Dent	*	*	*	*	*	*	*	*	*	*	*	*

TABLE 26-8. (Continued)

County	Total Arrests[b]	Offenses[a]										
		Murder/ Man-slaughter	Rape	Rob-bery	As-sault/ Bat-tery	Aggra-vated As-sault	Other Per-sonal	Bur-glary	Other Pro-erty	Public Order	Other General[c]	Unknown
Douglas	3	3	0	0	0	0	0	0	0	0	0	0
Dunklin	9	3	0	3	0	0	0	3	0	0	0	0
Franklin	49	0	0	5	0	5	6	26	5	0	2	0
Gasconade	*	*	*	*	*	*	*	*	*	*	*	*
Gentry	*	*	*	*	*	*	*	*	*	*	*	*
Greene	72	0	6	0	0	6	12	24	15	9	0	0
Grundy	3	0	0	0	0	0	0	3	0	0	0	0
Harrison	9	0	0	0	0	0	0	0	0	0	9	0
Henry	12	0	0	0	0	0	0	6	6	0	0	0
Hickory	*	*	*	*	*	*	*	*	*	*	*	*
Holt	*	*	*	*	*	*	*	*	*	*	*	*
Howard	*	*	*	*	*	*	*	*	*	*	*	*
Howell	9	3	0	0	0	0	0	3	3	0	0	0
Iron	*	*	*	*	*	*	*	*	*	*	*	*
Jackson	432	6	9	54	0	21	21	198	102	18	3	0
Jasper	96	0	0	3	0	6	0	30	36	3	18	0
Jefferson	40	0	0	11	0	0	3	10	11	5	0	0
Johnson	3	0	0	0	0	0	0	3	0	0	0	0
Knox	*	*	*	*	*	*	*	*	*	*	*	*
Laclede	15	0	0	3	0	0	0	6	6	0	0	0
Lafayette	3	0	0	0	0	0	0	3	0	0	0	0
Lawrence	12	0	0	0	0	3	0	3	3	0	3	0
Lewis	*	*	*	*	*	*	*	*	*	*	*	*
Lincoln	3	0	0	0	0	0	0	3	0	0	0	0
Linn	*	*	*	*	*	*	*	*	*	*	*	*
Livingston	3	0	0	0	0	0	0	0	3	0	0	0
McDonald	*	*	*	*	*	*	*	*	*	*	*	*
Macon	18	0	0	0	0	0	0	12	6	0	0	0
Madison	*	*	*	*	*	*	*	*	*	*	*	*
Maries	*	*	*	*	*	*	*	*	*	*	*	*
Marion	3	0	0	0	0	0	0	0	3	0	0	0
Mercer	*	*	*	*	*	*	*	*	*	*	*	*
Miller	*	*	*	*	*	*	*	*	*	*	*	*
Mississippi	*	*	*	*	*	*	*	*	*	*	*	*
Moniteau	*	*	*	*	*	*	*	*	*	*	*	*

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TABLE 26-8. (Continued)

County	Total Arrests[b]	Offenses[a]										
		Murder/ Manslaughter	Rape	Robbery	Assault/ Battery	Aggravated Assault	Other Personal	Burglary	Other Property	Public Order	Other General[c]	Unknown
Monroe	3	0	0	0	0	0	0	3	0	0	0	0
Montgomery	6	0	0	0	0	0	0	6	0	0	0	0
Morgan	3	0	0	0	0	0	0	0	3	0	0	0
New Madrid	3	0	3	0	0	0	0	0	0	0	0	0
Newton	12	0	0	0	0	0	0	6	3	0	3	0
Nodaway	3	0	0	0	0	0	0	0	3	0	0	0
Oregon	*	*	*	*	*	*	*	*	*	*	*	*
Osage	*	*	*	*	*	*	*	*	*	*	*	*
Ozark	*	*	*	*	*	*	*	*	*	*	*	*
Pemiscot	12	3	0	0	0	6	0	3	0	0	0	0
Perry	3	0	0	0	0	0	0	0	3	0	0	0
Pettis	9	0	0	0	0	0	0	6	3	0	0	0
Phelps	27	0	3	9	0	0	3	6	6	0	0	0
Pike	*	*	*	*	*	*	*	*	*	*	*	*
Platte	36	0	0	3	0	0	6	6	15	0	6	0
Polk	*	*	*	*	*	*	*	*	*	*	*	*
Pulaski	*	*	*	*	*	*	*	*	*	*	*	*
Putnam	*	*	*	*	*	*	*	*	*	*	*	*
Ralls	*	*	*	*	*	*	*	*	*	*	*	*
Randolph	6	0	0	0	0	0	0	0	6	0	0	0
Ray	*	*	*	*	*	*	*	*	*	*	*	*
Reynolds	9	0	0	0	0	0	0	0	9	0	0	0
Ripley	*	*	*	*	*	*	*	*	*	*	*	*
St. Charles	39	0	0	3	0	6	0	18	6	0	6	0
St. Clair	*	*	*	*	*	*	*	*	*	*	*	*
St. Francois	15	0	0	0	0	3	3	6	3	0	0	0
Ste. Genevieve	3	0	0	0	0	0	0	3	0	0	0	0
St. Louis	554	0	6	33	0	60	57	221	147	15	15	0
Saline	*	*	*	*	*	*	*	*	*	*	*	*
Schuyler	*	*	*	*	*	*	*	*	*	*	*	*
Scotland	*	*	*	*	*	*	*	*	*	*	*	*
Scott	6	0	0	3	0	0	0	3	0	0	0	0
Shannon	*	*	*	*	*	*	*	*	*	*	*	*
Shelby	*	*	*	*	*	*	*	*	*	*	*	*

TABLE 26-8. (Continued)

County	Total Arrests[b]	Offenses[a]										
		Murder/ Man-slaugh-ter	Rape	Rob-bery	As-sault/ Bat-tery	Aggra-vated As-sault	Other Per-sonal	Bur-glary	Other Pro-erty	Public Order	Other General[c]	Unknown
Stoddard	*	*	*	*	*	*	*	*	*	*	*	*
Stone	*	*	*	*	*	*	*	*	*	*	*	*
Sullivan	*	*	*	*	*	*	*	*	*	*	*	*
Taney	*	*	*	*	*	*	*	*	*	*	*	*
Texas	*	*	*	*	*	*	*	*	*	*	*	*
Vernon	6	0	0	0	0	3	0	0	3	0	0	0
Warren	3	0	0	0	0	0	0	3	0	0	0	0
Washington	*	*	*	*	*	*	*	*	*	*	*	*
Wayne	6	0	0	0	0	0	0	3	3	0	0	0
Webster	*	*	*	*	*	*	*	*	*	*	*	*
Worth	*	*	*	*	*	*	*	*	*	*	*	*
Wright	*	*	*	*	*	*	*	*	*	*	*	*
St. Louis City	432	12	0	111	0	48	33	162	57	9	0	0
Totals	2,263	33	33	256	0	185	165	917	547	59	68	0

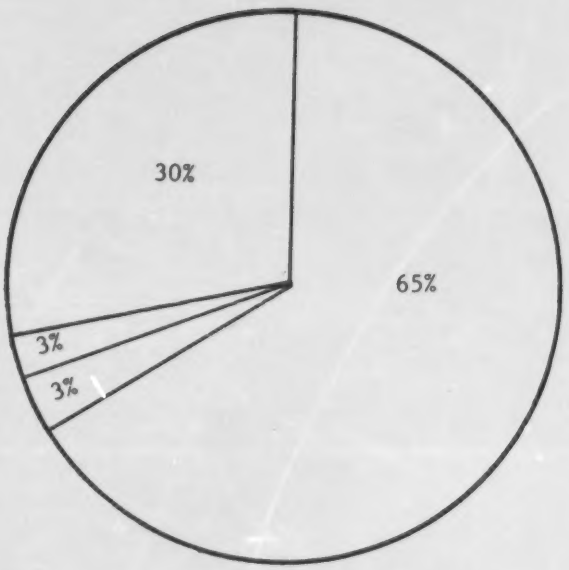
* denotes Not Available.

a. Only most serious offense per individual listed.

b. Felony arrest data provided by the Missouri State Highway Patrol Department of Public Safety. State sources estimated that the number of court filings approximates the number of arrests by about 100 percent.

c. The offenses included in this category are specific to Missouri and may vary slightly from the offenses included in this category in other states and in the appendix.

FIGURE 26-2. MISSOURI: PERCENTAGE OF YOUTH ARRESTS AS ADULTS DUE TO AGE OF JURISDICTION (BY OFFENSE CATEGORY) IN 1978



Offenses[a]	
Personal	30%
Property	65%
Public Order	3%
Other General	3%

N= 2,263

a. Violent offenses (murder/manslaughter, rape, robbery, and aggravated assault) represent 22 percent of all reported offenses in the state.

TABLE 26-9. MISSOURI: YOUTH ARRESTS AS ADULTS DUE TO AGE OF JURISDICTION (BY OFFENSE TYPE AND FREQUENCY) IN 1978[a]

Types of Offenses	Violent Offense Subtotal	Offense Category Subtotal	Total
PERSONAL OFFENSES			673
Violent Offenses		507	
Murder	33		
Manslaughter	—		
Rape	33		
Robbery	256		
Aggravated Assault	185		
Arson		24	
Kidnapping		—	
Assault/Battery		—	
Other Personal[b]		141	
PROPERTY OFFENSES			1,464
Burglary		917	
Larceny		409	
Auto Theft		—	
Trespassing		—	
Other Property[c]		138	
PUBLIC ORDER OFFENSES			59
Drug Violations		—	
Liquor Violations		3	
Other Public Order		56	
OTHER GENERAL OFFENSES			68
Status Offenses		—	
Offenses Against the Family		—	
Other General[d]		68	
UNKNOWN			0
TOTAL OFFENSES			2,263

— denotes Not Applicable.

a. Felony arrest data provided by the Missouri State Highway Patrol, Department of Public Safety. State sources could only report felony arrests of 17 year olds for 57 counties. Of the remaining 58 counties, the state reported that 35 of them reported no felony arrests and the remaining 23 counties had not reported. State sources estimated that the number of court filings approximates the number of arrests by about 100 percent.

b. Includes sex offenses other than rape, unlawful possession of firearms, etc.

c. Includes bad checks, receiving or possessing stolen property, fraud, etc.

d. Includes being a fugitive, breaking jail-escaping custody, violation of federal statutes, and parole violations, as well as a miscellaneous category.

Table 26-10 provides a summary of the number of cases reported in the preceding tables concerning total referrals to adult courts, the number selected for Phase II investigation, and findings concerning conviction and confinement practices applicable to these youth. There were 197 judicial waivers reported in Missouri (including 21 waivers for traffic offenses in St. Louis County). Sixty-eight percent (134) of these judicial waivers occurred in the Phase II counties, with Phase II information provided on a limited number regarding convictions (ten youth) and confinement length (one youth was sent to an adult facility for more than one to three years).

Among the 2,263 reported age of jurisdiction felony arrests, offense data were the only available Phase II information provided by state sources.

TABLE 26-10. MISSOURI: SUMMARY OF TABLES (BY LEGAL MECHANISM)

	Judicial Waiver[a]	Age of Jurisdiction[b]
Total Referrals to Adult Courts in 1978 (Table 26-1)	197	2,263
Total Referrals Selected for Phase II (Tables 26-3 and 26-8)	134	2,263
Total Referrals Resulting in Convictions (Table 26-6)	10	*
Total Convictions Resulting in Sentences of Confinement (Table 26-7)	1	*

* denotes Not Available.

a. Includes 21 judicial waivers for traffic offenses in St. Louis County.

b. Felony arrest data provided by the Missouri State Highway Patrol, Department of Public Safety. State sources could only report felony arrests of 17 year olds for 57 counties. State sources estimated that the number of court filings approximates the number of arrests by about 100 percent.

In summary, 69 percent of youth judicially waived were 16 years old or younger. However, some 17 and 18 year olds were waived due to their being under juvenile courts' jurisdiction for a prior offense. Of the judicial waivers, 98 percent were males, and 81 percent were white youth. Fifty-one percent were charged with crimes against the person and 25 percent with property offenses. Ten of 18 were found guilty (with five of these cases held open), and all but one received probation.

Demographic data were not available for the age of jurisdiction felony arrest cases. Sixty-three percent of these cases came from the three largest counties. Sixty-five percent of the charges were for property offenses, burglaries in particular. Other Phase II data were not available for these age of jurisdiction cases, and no data were available for 17 year olds subject to prosecution in adult courts due to misdemeanors.

Routinely Handled Traffic Offenses

When juveniles under 17 years old violated Missouri traffic ordinances in 1978, they could be judicially waived to adult courts after a juvenile court hearing. This section presents information, reported by the local jurisdictions, on the number of youth referred to adult courts for routine traffic offenses. Twenty-seven (25 percent) of the 110 local jurisdictions from which data were available reported 2,143 judicial waivers for traffic offenses in 1978. Almost 78 percent of the counties reporting these waivers had estimated juvenile populations, ages eight through 17, below 5,000 youth.

TABLE 26-11. MISSOURI: JUVENILE REFERRALS TO ADULT COURTS FOR WAIVED TRAFFIC OFFENSES (BY COUNTY, JUVENILE POPULATION, AND FREQUENCY OF OFFENSES) IN 1978

County	Juvenile Population (Ages 8-17)[a]	Number of Waived Traffic Offenses
Adair	2,996	0
Andrew	2,452	0
Atchison	1,334	44 est
Audrain	4,626	31
Barry	3,418	0
Barton	1,618	0
Bates	2,697	119
Benton	1,698	0

TABLE 26-11. (Continued)

County	Juvenile Population (Ages 8-17)[a]	Number of Waived Traffic Offenses
Bollinger	1,629	0 est
Boone	12,156	8 est
Buchanan	15,285	0
Butler	6,145	0
Caldwell	1,452	0
Callaway	4,671	0
Camden	2,433	0
Cape Girardeau	7,859	0
Carroll	1,895	2
Carter	863	0
Cass	9,492	0
Cedar	1,681	0
Cariton	1,669	0
Christian	3,401	0
Clark	1,516	0
Clay	24,502	*
Clinton	2,562	0
Cole	8,550	0
Cooper	2,373	70 est
Crawford	2,840	0
Dade	1,074	0
Dallas	1,917	0
Daviess	1,395	0
De Kalb	1,330	0
Dent	2,276	*
Douglas	1,940	0
Dunklin	6,654	0
Franklin	12,766	230 est
Gasconade	1,867	60 est
Gentry	1,199	26 est
Greene	26,320	0
Grundy	1,713	0
Harrison	1,563	0
Henry	3,197	157
Hickory	810	0
Holt	997	29 est
Howard	1,569	20 est

TABLE 26-11. (Continued)

County	Juvenile Population (Ages 8-17)[a]	Number of Waived Traffic Offenses
Howell	4,405	0
Iron	1,818	9 est
Jackson	108,085	1 est
Jasper	13,405	0
Jefferson	24,777	0
Johnson	4,713	0
Knox	935	0
Laclede	3,861	0
Lafayette	4,865	0
Lawrence	4,348	0
Lewis	1,909	0
Lincoln	3,744	1
Linn	2,201	0
Livingston	2,460	0
McDonald	2,879	0
Macon	2,405	0
Madison	1,510	0
Maries	1,231	0
Marion	4,778	0
Mercer	643	0
Miller	2,699	0
Mississippi	3,234	10 est
Moniteau	2,032	0
Monroe	1,683	0
Montgomery	2,127	3
Morgan	2,065	0
New Madrid	4,842	0
Newton	6,060	0
Nodaway	2,946	56 est
Oregon	1,681	0
Osage	2,333	60 est
Pzark	1,025	0
Pemiscot	5,198	0
Perry	2,666	0
Pettis	5,547	80 est
Phelps	5,368	0
Pike	3,130	1

TABLE 26-11. (Continued)

County	Juvenile Population (Ages 8-17)[a]	Number of Waived Traffic Offenses
Platte	7,439	0
Polk	2,749	0
Pulaski	5,272	0
Putnam	880	0
Ralls	1,468	0
Randolph	3,643	30 est
Ray	3,672	0
Reynolds	1,249	0
Ripley	2,256	0
St. Charles	24,743	0
St. Clair	1,366	36
St. Francois	6,781	0
Ste. Genevieve	2,820	0
St. Louis[b]	174,841	*
Saline	3,739	49 est
Schuyler	739	0
Scotland	935	0
Scott	6,735	12
Shannon	1,429	0
Shelby	1,330	0
Stoddard	4,721	0
Stone	1,889	0
Sullivan	1,057	0
Taney	2,149	0
Texas	3,834	0
Vernon	2,941	0
Warren	2,363	*
Washington	3,342	0
Wayne	1,802	*
Webster	3,594	0
Worth	515	6 est
Wright	2,466	0

TABLE 26-11. (Continued)

County	Juvenile Population (Ages 8-17)[a]	Number of Waived Traffic Offenses
St. Louis City	85,145	993
Total	821,912	2,143 est

* denotes Not Available.

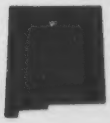
a. 1978 populations estimates were developed by the National Center for Juvenile Justice using data from two sources: the 1970 national census and the National Cancer Institute 1975 estimated aggregate census.

b. Twenty-one judicial waivers for traffic offenses in St. Louis County were included in the judicial waiver tables earlier in this profile.

These data should be viewed with extreme caution. There is some question whether the information obtained from certain counties accurately reflects referrals of juveniles from juvenile courts to criminal courts for routine traffic violations, due to the high frequencies in relation to the size of the juvenile population.

FOOTNOTES

1. Missouri Annotated Statutes, Section 478.063.
2. Missouri Annotated Statutes, Section 211.031(2).
3. Missouri Annotated Statutes, Sections 211.031(2) and 211.021(2).
4. Missouri Annotated Statutes, Section 211.071, Rule 118.01(1).
5. Ibid.
6. State v. Falbo, 333 S.W.2d 279 (1960).
7. State v. Reid, 391 S.W.2d 200 (1965).
8. State v. Arbeiter, 408 S.W.2d 26 (1966); Missouri Annotated Statutes, Section 211.061.
9. State v. Brown, 443 S.W.2d 805 (1969).
10. State v. Goff, 449 S.W.2d 591 (1969).
11. Russell v. State, 494 S.W.2d 30 (1973).
12. State v. Ford, 487 S.W.2d 1 (1972).
13. State ex rel. Arbeiter v. Reagan, 427 S.W.2d 371 (1968).
14. Jefferson v. State, 442 S.W.2d 6 (1969).
15. Coney v. State, 491 S.W.2d 501 (1973); State v. Thompson, 502 S.W. 2d 359 (1973).
16. Kent v. United States, 383 U.S. 541, 86 S. Ct. 1045 (1966); State ex rel. T.G.H. v. Bills, 504 S.W.2d 76 (1974).
17. In the Interest of A.D.R., 515 S.W.2d 438 (1974).
18. State v. Taylor, 456 S.W.2d 9 (1970).
19. State v. McMillan, 514 S.W.2d 528 (1974).
20. Transfer from adult to juvenile facilities was possible prior to 1975. Missouri Annotated Statutes, Section 219.230.



NEW MEXICO PROFILE

ACKNOWLEDGMENTS

The Academy thanks the staff of the prosecutors' offices in New Mexico for their cooperation in the data collection effort. In addition, the Academy expresses its appreciation to the many other state and local officials who provided us with the necessary data. Special thanks are extended to Michael Banks, Deputy Secretary of the State of New Mexico, Criminal Justice Department who reviewed this profile prior to publication.

METHODOLOGY

All New Mexico data on judicial transfers were obtained through telephone interviews by Academy staff with the county prosecutor's office in each of New Mexico's 32 counties. Phase I data--the frequency of youth judicially transferred from juvenile to adult courts--were sought for all counties. Phase II data--age, sex, race, offenses, dispositions, and sentences of youth judicially transferred--were sought from the most populous ten percent of the counties and those counties with five or more waivers. Data on 16 and 17 year olds cited for minor traffic violations were available in only four of the 22 counties surveyed for this information. Information on felonious traffic violations by youth 15 years old or older which are initially excluded from juvenile jurisdiction was not sought.

COURT ORGANIZATION

The highest courts of general jurisdiction in New Mexico are the district courts. There are 32 district courts, one in each county. Minor criminal cases are heard in magistrate, municipal, and small claims courts.

Cases involving juvenile delinquency are generally heard in the children's division of the district court. However, some counties have a family court division of district court in lieu of a children's division.[1] Children and family divisions of district courts are hereafter referred to as juvenile courts. Serious traffic violations committed by youth 15 years old and older are tried in district courts, and lesser traffic offenses committed by 16 and 17 year olds are tried in magistrate or municipal courts.

An overview of New Mexico courts by their jurisdiction over juveniles appears below.

NEW MEXICO: COURT JURISDICTION OVER JUVENILES IN 1978

General Juvenile Jurisdiction	Jurisdiction over Juveniles Transferred	Juvenile Traffic
District Courts (Children's or Family Court Divisions)	District Courts	District Courts[a] Magistrate Courts Municipal Courts

a. Serious traffic violations by youth 15 years old or older are filed on directly in District Courts, Criminal Divisions.

TRANSFER PROCESS

In New Mexico, the maximum age of juvenile court jurisdiction extends to age 18.[2] There are, however, two legal mechanisms by which youth under age 18 may be referred to adult court, including judicial transfer by juvenile courts and automatic exclusion to adult courts for specified excluded offenses.

Judicial Waiver

There are two groups of youth subject to judicial transfer to adult courts in New Mexico. First, youth 16 years of age or older at the time of the commission of an act which would be a felony if committed by an adult may be transferred to adult court following a transfer hearing.[3] Second, youth 15 years or older accused of murder, or youth 16 years old or older accused of one or more of a series of specified serious felonies may be transferred to adult court after a hearing. The specified serious felonies include rape, robbery, kidnapping, assault with intent to commit a violent felony, aggravated battery, dangerous use of explosives, felony criminal sexual penetration, aggravated burglary, and aggravated arson.[4] Regardless of charges or youth's ages, transfer hearings are intitiated at the motion of the children's courts attorneys. The juvenile courts must find at the transfer hearing reasonable grounds to believe the youth committed the alleged act and that the youth is not amenable to treatment or rehabilitation through existing facilities. In addition,

the courts must find, for youth age 16 or older and accused of an act which would be felonious if committed by an adult, reasonable grounds to believe the youth are not committable to an institution for the mentally retarded or mentally ill, as well as that the interests of the community require the youth be placed under legal restraint or discipline.

If the case is not transferred, the judge conducting the transfer hearing may not, over the objection of a party, preside over a hearing on the delinquency petition. If the case is transferred to a district court of which the judge conducting the transfer hearing is also a member, that judge is disqualified from the district court proceedings on the criminal matter upon the objection of a party.[5]

Excluded Offenses

In addition to receiving youth judicially transferred from juvenile court, the district court has exclusive jurisdiction over serious traffic offenses committed by youth age 15 or older. These excluded serious offenses include driving while under the influence of liquor or drugs; failure to stop in the event of an accident involving death or personal injury; any offense not within the trial jurisdiction of magistrate or municipal courts; and traffic offenses punishable as a felony.[6] These cases may be transferred from district courts to juvenile courts and proceeded against in the same manner as if they were charged with delinquent acts. No factors are stated in the statutes to be considered in the decision to transfer juveniles to juvenile court for these traffic offenses.

Finally, routine or lesser traffic violations by a juvenile of any age are initially excluded from juvenile court jurisdiction to magistrate or municipal courts.[7]

CASE LAW SUMMARY

A search of New Mexico case law back to 1950 revealed that the State Supreme Court has, on several occasions, rendered opinions resolving transfer or certification issues. In State v. Doyal, the court held that a prior statute which appeared to vest both juvenile and district courts with authority to decide which court should process a juvenile was not unconstitutional on the basis of due process or equal protections violations.[8] Although the statute in question could be alternatively viewed as a concurrent jurisdiction provision, a transfer from juvenile to district court provision, or a reverse certification provision, the court held that it was not constitutionally defective for failure to provide standards or criteria to be applied by the courts in exercising this discretion. Ten years later, in Trujillo v. Cox, the court held that unless the

state establishes, by competent evidence, that order of transfer from a juvenile to a district court was made, the subsequent conviction will be deemed void for lack of jurisdiction.[9]

However, New Mexico law does provide that unless alleged defects in the transfer proceeding are raised in a timely manner, the court will hold that the defendant has waived these errors. In Neller v. State, the defendant failed, in district court upon arraignment, to enter any objection to the fact that he was not represented by counsel at the transfer hearing.[10] The court held that since he was represented by counsel at his arraignment in district court, the defendant should have raised his objections at that time. This holding was reiterated in State v. Salazar.[11]

The constitutionality of New Mexico's prior transfer statute was upheld in State v. Jiminez, wherein the court, relying on State v. Doyal, found that the statute was not void for vagueness.[12] Finally, in State v. Rondeau, the New Mexico Supreme Court held that a children's court does not exceed its jurisdiction by certifying a juvenile for trial as an adult where there are reasonable grounds to believe that the defendant committed the alleged acts.[13]

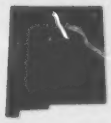
Other issues relevant to youth in adult courts have also been resolved by the New Mexico high court. In Trujillo v. State, the court held that juvenile courts could not have jurisdiction over the matter since the defendant was over 21 years of age at the time proceedings were commenced.[14] The court based its holding upon the relevant statutory provisions then in effect. In State v. Henry, the court held that constitutional speedy trial standards applicable to adults also apply in proceedings against juveniles.[15] Finally, in Peyton v. Nord, the court held that a juvenile charged with a violation of state law, which if committed by an adult would be triable by a jury, and no certification occurs, is entitled to a jury trial in juvenile court.[16]

CORRECTIONS INFORMATION

State corrections institutions are administered by the New Mexico Corrections Department. The department is divided into divisions handling adult and juvenile institutions.

Juveniles are committed to the Corrections Department's Division of Juvenile Facilities. Most often they are sent to the New Mexico Boys' School, though young offenders are also sent to Eagle Nest Camp with its minimum-security, open-campus situation. Delinquent girls are sent to the New Mexico Youth Diagnostic Center. Once assigned to one of the juvenile facilities, there are no provisions for commitment or administrative transfer of a delinquent to a penal institution.

New Mexico state sources reported that youth transferred to adult courts and committed to the Corrections Department may be placed in either a juvenile or adult facility. Judges presiding over the trials can make recommendations,



but the Corrections Department has authority to make the placement decision. The Intake and Classification Committee of the New Mexico State Penitentiary decides where individuals are placed. If sent to a juvenile institution, youth remain under the jurisdiction of the adult probation and parole authorities. In special circumstances, judges and the Corrections Department may make arrangements to place convicted youth directly into a juvenile facility, thereby avoiding the environment of the State Penitentiary.[17]

Finally, judges may recommend that adjudicated delinquents and youth convicted as adults be sent to the Corrections Department's diagnostic facility for a 60-day period of evaluation. After evaluation is completed, the Department decides appropriate placement.

STATE DATA SUMMARY

In New Mexico, youth 16 years of age or older charged with a felony may be judicially transferred to adult court after a hearing in juvenile court. Youth 15 years old or older, charged with murder, and youth 16 years old or older charged with one or more of a series of specific serious felonies may also be transferred to adult court. In the latter cases, there are fewer factors required to be considered by juvenile judges in the decision to transfer to criminal courts than for youth 16 years of age or older accused of a felony. Youth charged with minor traffic offenses are routinely tried in municipal or magistrate courts. Youth 15 years of age or older accused of specified serious traffic violations are handled initially in district courts, but may be transferred back to juvenile courts. Data on the serious traffic offenses excluded from juvenile jurisdiction were not collected. Data on youth in adult courts due to minor traffic offenses will be presented later in this profile.

Table 32-1 indicates that 21 youth were judicially transferred to New Mexico district courts in 1978 for a statewide rate of .907 youth per 10,000 juvenile population, ages eight to 17. Nine of these youth were transferred in Bernalillo County, which contains Albuquerque, the state's largest city.

TABLE 32-1. NEW MEXICO: REFERRALS OF JUVENILES TO ADULT COURTS IN 1978 (BY COUNTY, RATE, AND LEGAL MECHANISM)

County	Juvenile Population (Ages 8-17)[a]	Judicial Waiver	
		Cases	Rate[b]
Bernalillo	69,036	9	1.204
Catron	396	0	0.000
Chaves	9,167	1	1.091
Colfax	2,474	1	4.042
Curry	8,523	1	1.173
De Baca	461	0	0.000
Dona Ana	16,367	2	1.222
Eddy	7,886	0	0.000
Grant	4,785	0	0.000
Guadalupe	1,075	0	0.000
Harding	207	0	0.000
Hidalgo	1,380	0	0.000
Lea	9,815	0	0.000
Lincoln	1,715	0	0.000
Los Alamos	3,631	0	0.000
Luna	3,056	0	0.000
McKinley	12,975	0	0.000
Mora	1,051	0	0.000
Otero	9,119	1	1.097
Quay	2,024	0	0.000
Rio Arriba	6,521	0	0.000
Roosevelt	2,620	0	0.000
Sandoval	5,053	0	0.000
San Juan	15,322	0	0.000
San Miguel	4,380	3	6.849
Santa Fe	12,558	0	0.000
Sierra	1,343	0	0.000
Socorro	1,939	3	15.472
Taos	4,214	0	0.000
Torrance	1,011	0	0.000
Union	999	0	0.000
Valencia	10,324	0	0.000
Totals	231,427	21	0.907

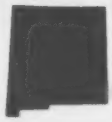


TABLE 32-1. (Continued)

a. 1978 population estimates were developed by the National Center for Juvenile Justice using data from two sources: the 1970 national census and the National Cancer Institute 197[illegible] estimated aggregate census.

b. Rate per 10,000 juveniles eight to 17 years old (1978).

Table 32-2 shows the relationship between the state and counties selected for Phase II investigation. In New Mexico, the three counties of Bernalillo, Dona Ana, and Santa Fe are the most populous counties in the state. Santa Fe county reported no transfers. Therefore, two Phase II counties supplied 52 percent (11) of the transfers for the entire state and these three counties represented 42 percent of the state's juvenile population.

TABLE 32-2. NEW MEXICO: RELATIONSHIP OF PHASE II COUNTIES TO ALL COUNTIES, BASED UPON 1978 POPULATION ESTIMATES AND DATA

	Juvenile Population (Ages 8-17)[a]	Number of Counties Judicial Waiver	Number of 1978 Judicial Referrals
State	231,427	32	21
Selected for Phase II Investigation	97,961	3	11
Percentage of State Selected for Phase II Investigation	42%	9%	52%

a. 1978 population estimates were developed by the National Center for Juvenile Justice using data from two sources: the 1970 national census and the National Cancer Institute 1975 estimated aggregate census.

Table 32-3 gives a demographic breakdown--age, sex, race--of youth transferred to adult courts in Phase II counties. Seven (64 percent) were age 17 and three (27 percent) were age 16. All were males. Only one was a white youth, while ten (91 percent) were minority youth.

TABLE 32-3. NEW MEXICO: JUDICIAL WAIVERS TO ADULT COURTS IN PHASE II COUNTIES (BY COUNTY AND BY AGE, SEX, AND RACE) IN 1978

County	Total Waivers	Age				Sex		Race	
		0-15	16	17	18+	Male	Female	White	Minority
Bernalillo	9	1	3	5	0	9	0	1	8
Dona Ana	2	0	0	2	0	2	0	0	2
Santa Fe	0	0	0	0	0	0	0	0	0
State Phase II Total	11	1	3	7	0	11	0	1	10

Table 32-4 gives a breakdown of the 11 transferred cases from Phase II counties by category of offenses. Nine (82 percent) were for crimes against the person (murder, manslaughter, rape, aggravated assault, robbery). Two (18 percent) were for crimes against property (burglary).

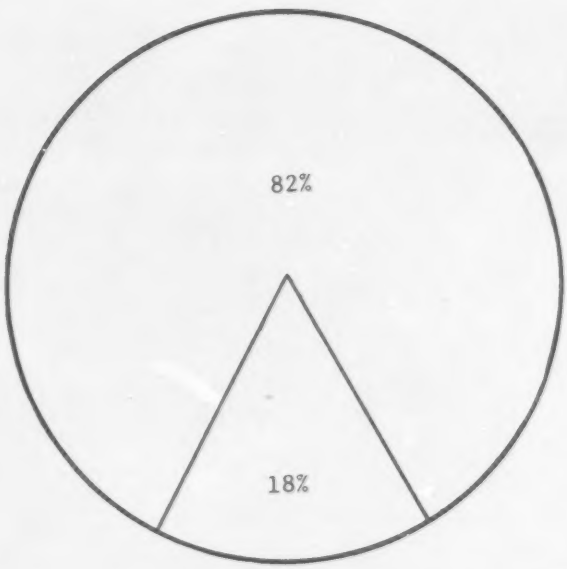
TABLE 32-4. NEW MEXICO: JUDICIAL WAIVERS TO ADULT COURTS IN PHASE II COUNTIES (BY COUNTY AND BY TYPES OF OFFENSES) IN 1978

County	Total Waivers	Offenses[a]									
		Murder/ Manslaughter	Rape	Robbery	Assault/ Battery	Aggravated Assault	Other Personal	Burglary	Other Property	Public Order	Other General
Bernalillo	9	2	2	2	0	1	0	2	0	0	0
Dona Ana	2	0	0	2	0	0	0	0	0	0	0
State Phase II Total	11	2	2	4	0	1	0	2	0	0	0

a. Only most serious offense per individual is listed.

Figure 32-1 provides a graphic illustration of the most serious charges against the 11 youth transferred to adult courts in Phase II counties in 1978. The figure indicates that transfers were made for only personal and property offenses, with personal offenses accounting for 82 percent of the total.

FIGURE 32-1. NEW MEXICO: PERCENTAGE OF JUDICIAL WAIVERS TO ADULT COURTS IN PHASE II COUNTIES (BY OFFENSE CATEGORY) IN 1978



Offenses[a]	
Personal	82%
Property	18%
Public Order	0%
Other General	0%
N=11	

a. Violent offenses (murder, manslaughter, rape, robbery, and aggravated assault) represent 82 percent of all offenses in Phase II counties.

Table 32-5 gives judgments of the transferred youth in Phase II counties. Of the nine youth for which judgments were reported, eight (89 percent) were found guilty and one case was dismissed. Judgments had not been rendered in three cases at the time of the data collection.

TABLE 32-5. NEW MEXICO: JUDICIAL WAIVERS TO ADULT COURTS IN PHASE II COUNTIES (BY COUNTY AND BY JUDGMENTS IN ADULT COURTS) IN 1978

County	Total Waivers	Judgments				
		Not Guilty	Dismissed	Referred to Juvenile Court	Guilty	Other[a]
Bernalillo	9	0	1	0	6	2
Dona Ana	2	0	0	0	2	0
State Phase II Total	11	0	1	0	8	2

a. Held open or pending.

Table 32-6 shows the sentences of the youth from Phase II counties in adult courts. All eight youth convicted in adult courts were sentenced to state adult corrections institutions.

TABLE 32-6. NEW MEXICO: SENTENCES REPORTED FOR CONVICTIONS ARISING FROM JUDICIAL WAIVERS TO ADULT COURTS IN PHASE II COUNTIES (BY COUNTY AND SENTENCE TYPE) IN 1978

County	Total Convictions	Sentence Types					
		Fined	Probation	Jail	State Adult Corrections Facilities	State Juvenile Corrections Facilities	Other
Bernallilo	6	0	0	0	6	0	0
Dona Ana	2	0	0	0	2	0	0
State Phase II Total	8	0	0	0	8	0	0

Table 32-7 gives the maximum sentences imposed on the incarcerated youth. Two youth received maximum sentences of five years. One youth received a maximum sentence of ten years and the remaining five received maximum sentences of more than ten years.

TABLE 32-7. NEW MEXICO: LENGTH OF CONFINEMENTS REPORTED FOR SENTENCES ARISING FROM JUDICIAL WAIVER TO ADULT COURTS IN PHASE II COUNTIES (BY COUNTY AND MAXIMUM SENTENCE) IN 1978

County	Total Confinement	Sentence Maximums							
		One Year or Less	One+ to 3 Years	3+ to 5 Years	5+ to 10 Years	Over 10 Years	Indeterminate	Life	Death
Bernalillo	6	0	0	2	1	3	0	0	0
Dona Ana	2	0	0	0	0	2	0	0	0
State Phase II Total	8	0	0	2	1	5	0	0	0

Table 32-8, the last to be presented on judicial transfers, summarizes some of the preceding tables. This summary table indicates that 11 of the 21 judicial transfers occurring in New Mexico in 1978 were selected for Phase II investigation. Eight of these youth were convicted, and all of them received sentences of confinement.

TABLE 32-8. NEW MEXICO: SUMMARY OF TABLES
(BY LEGAL MECHANISM)

	Judicial Waiver
Total Referrals to Adult Courts in 1978 (Table 32-1)	21
Total Referrals Selected for Phase II (Table 32-3)	11
Total Referrals Resulting in Convictions (Table 32-6)	8
Total Convictions Resulting in Sentences of Confinement (Table 32-7)	8

In summary, 21 juveniles were transferred to adult courts from juvenile courts in 1978. This represents a rate of 0.9 per 10,000 juvenile population. Forty-three percent of the transferred cases came from Bernallilo County (Albuquerque). Of the youth transferred in Phase II counties, 64 percent were age 17 and 27 percent were age 16. All were males, and 91 percent were minority youth. Eighty-two percent were charged with crimes against the person. Eighty-nine percent were found guilty, and all those convicted were sentenced to state adult corrections institutions. Sixty-three percent of these received maximum sentences of more than ten years.

Routinely Handled Traffic Offenses

As indicated earlier, 22 of New Mexico's 32 counties were surveyed for the frequency of youth age 16 and 17 routinely tried in magistrate or municipal courts for lesser traffic offenses in 1978. Among the counties asked about lesser offenses, only four provided information. Table 32-9 indicates the number of youth tried in magistrate or municipal courts for lesser traffic violations. Dona Ana County made the largest contribution to the total reported

by the four counties, with an estimated 5,000 youth of the 9,445 subject to magistrate or municipal court jurisdiction for lesser traffic offenses.

TABLE 32-9. NEW MEXICO: JUVENILE REFERRALS TO ADULT COURTS FOR EXCLUDED TRAFFIC OFFENSES (BY COUNTY, JUVENILE POPULATION, AND FREQUENCY OF OFFENSES) IN 1978

County	Juvenile Population (Ages 8-17)[a]	Number of Excluded Traffic Offenses[b]
Bernalillo	69,036	1971 est
Catron	396	**
Chaves	9,167	*
Colfax	2,474	**
Curry	8,523	*
De Baca	461	**
Dona Ana	16,367	5000 est
Eddy	7,886	*
Grant	4,785	*
Guadalupe	1,075	*
Harding	207	**
Hidalgo	1,380	**
Lea	9,815	*
Lincoln	1,715	**
Los Alamos	3,631	*
Luna	3,056	**
McKinley	12,975	*
Mora	1,051	*
Otero	9,119	*
Quay	2,024	*
Rio Arriba	6,521	*
Roosevelt	2,620	*
Sandoval	5,053	*
San Juan	15,322	457 est
San Miguel	4,380	*
Santa Fe	12,558	2017 est
Sierra	1,343	*
Socorro	1,939	*
Taos	4,214	**
Torrance	1,011	**

TABLE 32-9. (Continued)

County	Juvenile Population (Ages 8-17)[a]	Number of Excluded Traffic Offenses[b]
Union	999	**
Valencia	10,324	*
Total	231,427	9,445 est

* denotes Not Available.

** denotes Not Surveyed.

a. 1978 population estimates were developed by the National Center for Juvenile Justice using data from two sources: the 1970 national census and the National Cancer Institute 1975 estimated aggregate census.

b. Information presented is not necessarily representative of the entire state. Data were gathered from selected counties and courts.

FOOTNOTES

1. New Mexico Statutes Annotated, Sections 32-1-4(A) and (B), and 32-1-9.
2. New Mexico Statutes Annotated, Section 32-1-3(A) and (B).
3. New Mexico Statutes Annotated, Section 32-1-29.
4. New Mexico Statutes Annotated, Section 32-1-30.
5. New Mexico Statutes Annotated, Sections 32-1-29 and 32-1-30; New Mexico Rules for Children's Court, Rule 30.
7. New Mexico Statutes Annotated, Section 32-1-3(N).
6. New Mexico Statutes Annotated, Section 32-1-48.
8. State v. Doyal, 286 P.2d 306, 59 N.M. 454 (1955).
9. Trujillo v. Cox, 403 P.2d 696, 75 N.M. 257 (1965).
10. Neller v. State, 445 P.2d 949, 79 N.M. 528 (1968).
11. State v. Salazar, 446 P.2d 644, 79 N.M. 592 (1968).
12. State v. Jiminez, 503 P.2d 315, 84 N.M. 335 (1972).
13. State v. Rondeau, 553 P.2d 688, 89 N.M. 408 (1976).
14. Trujillo v. State, 447 P.2d 279, 79 N.M. 618 (1968).
15. State v. Henry, 434 P.2d 692, 78 N.M. 573 (1967).
16. Peyton v. Nord, 437 P.2d 716, 78 N.M. 717 (1968).
17. New Mexico Statutes Annotated, Section 32-1-30.

OKLAHOMA PROFILE

ACKNOWLEDGMENTS

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METHODOLOGY

In Oklahoma, Phase I data--the frequency of youth judicially certified from juvenile to adult courts and Phase II data--age, sex, race, offenses, dispositions, and sentences of youth judicially certified in all 77 communities--were included on a computer tape from the former Oklahoma Crime Commission. This record tape included all 1978 cases in adult courts and the Academy attempted to isolate all cases of youth under 18 judicially certified to adult courts in that year. However, the Academy was unable to determine which individuals ages 18 or over had been certified to adult courts for offenses committed before age 18 and, therefore, subject to juvenile jurisdiction. The provided data may include youth tried in adult courts under a new statute, effective during the last three months of 1978, which has since been repealed (see Transfer Process subsection), as well as youth judicially certified for a felony under Section 1112. In addition, according to state sources, these state records kept on computer tape were the result of a new data collection effort in which felony cases were required to be reported but lesser offenses were voluntarily reported by local sources.

Therefore, additional data sought by the Academy from the computerized records on youth tried in adult courts due to concurrent jurisdiction for traffic, conservation, alcohol, and other minor misdemeanors may not be complete.

Another state source for judicial waiver data was located in Oklahoma late in the study. The Administrative Office of the Judiciary's 1978 Report on the Judiciary provided judicial certification data by county which did not parallel the Oklahoma Crime Commission's data. According to state sources, these two agencies had different reporting procedures and data sources in Oklahoma's counties in 1978. Both data sets are presented in this profile in order to provide the reader with as much information as possible for a fuller understanding of judicial certification practices in Oklahoma in 1978.

Local sources were not contacted for verification of the state-supplied data in Oklahoma.

Oklahoma was chosen as the case study state representing federal administrative region 6, for several reasons. Oklahoma is composed of a large number of small, mostly rural counties. The maximum age of initial juvenile court jurisdiction extends to 18, the most common age nationwide. Oklahoma is also of interest as a state which presently utilizes three legal mechanisms to try youth in adult courts.

In January 1980, Academy staff conducted on-site interviews in three counties in Oklahoma: Oklahoma County (Oklahoma City), the location of the state capital; Tulsa County (Tulsa), a large metropolitan county; and Kay County (Ponca City), a representative small county. Those interviewed included supreme court justices, district court judges, juvenile court judges, public defenders, district attorneys, corrections officials, community services representatives, and other juvenile justice specialists.

All were asked to give their perceptions on the effects of trying youth in adult courts on local adult and juvenile courts, corrections, juvenile offenders, prosecutors, and the general public. Opinions were also obtained on factors to be considered at the certification hearing. Comparisons of severity of sentences given by the juvenile and adult courts were discussed, as were state trends and suggested changes for the transfer procedure.

Responses from interviewees, data from state reports and publications, and 1978 Academy census data were integrated to complete the Oklahoma case study.

HISTORY OF STATUTES RELATING TO JURISDICTION AND TRANSFER

There are presently three mechanisms by which juveniles may be tried in adult courts in Oklahoma:

- Juveniles charged with a felony may be judicially certified to adult court after a hearing in juvenile courts.
- Juvenile traffic offenders and those charged with minor misdemeanors may be routinely tried in adult courts due to concurrent jurisdiction between adult and juvenile courts over such offenses.
- Since 1979, juveniles charged with certain offenses are excluded from original juvenile court jurisdiction. (However, they may be "reverse certified" back to juvenile courts.)

In 1909, the first Oklahoma juvenile code conferred upon the county courts jurisdiction over delinquents under the age of 16 years if male and under the

age of 18 if females.[1] This disparate treatment of males and females was retained in the statutes until 1979, when a single age of 18 was inserted for both males and females. The separate treatment of sexes, although upheld by the Oklahoma courts, was found to be an unconstitutional denial of equal protection by a federal court in 1972.[2]

The original code included a myriad of offenses in addition to violations of law within the definition of delinquency. These included such status offenses as visiting public poolrooms, the use of cigarettes, and wandering about the streets in the nighttime without any lawful business.[3]

Major revisions in the Oklahoma juvenile justice system were made in 1968. At this time, juvenile jurisdiction was transferred from the county courts to the district courts.[4] Present sections containing language very similar to that of the 1968 statute continue the exclusive jurisdiction of the district courts.[5]

Certification was not a feature of Oklahoma juvenile law until 1968.[6] At that time, the district courts were given broad authority to certify youth to adult courts. In any case where juveniles were alleged to have committed crimes, such action might be taken based upon a finding that the involved juveniles were "capable of knowing right from wrong." The statute required that the certification be ordered only after full investigation and a hearing were carried out.

Also in 1968, the Oklahoma legislature removed status offenses from the definition of delinquency. Since that time, delinquency has been defined as a violation by juveniles of a federal law, state law, or municipal ordinance (except traffic offenses). Habitual offenders of traffic laws may also be included as delinquent.[7]

In 1973, the juvenile law was again substantially amended. Youth of any age could be certified if charged with a felony. The certifying court was required to carry out a full investigation and a hearing in which eight "guidelines" were to be considered (see Transfer Process subsection).[8]

The legislature made further changes in 1978. Since this time, the juvenile courts on their own motions, or on motion of the district attorneys, must conduct a preliminary hearing in which it is determined that there is prosecutive merit to the charge. If prosecutive merit exists, then an investigation and further hearing is carried out to determine whether the youth involved may be reasonably rehabilitated.

In addition, a new provision was added calling for the certification of youth over the age of 16 in cases where probable cause existed to believe that the involved juvenile had committed any of the serious offenses specified therein, unless proven to the satisfaction of the court that he or she should be treated as a juvenile.

This certification provision for 16 and 17 year olds was declared unconstitutionally vague and was replaced in 1979.[9] The new legislation excludes 16 and 17 year olds charged with one of the serious felonies enumerated in statute from

original juvenile court jurisdiction. However, youth may file a motion for certification as juveniles (reverse certification).

Finally, a special category of delinquency was added in 1979 to include those youth who were 16 or 17 years of age and charged with specified offenses who have been certified back to juvenile courts by the district courts.[10]

Case Law Summary

Since 1950, Oklahoma's highest court has heard several cases regarding certification-related issues.

Until 1979, Oklahoma statutes defined "child" as any male under 16 and any female under 18 years of age. In 1970, the Oklahoma Court of Criminal Appeals, in Lamb v. State, upheld the constitutionality of this statute.[11] However, the U.S. Court of Appeals for the Tenth Circuit, in Lamb v. Brown, declared this provision to be violative of the equal protection clause of the U.S. Constitution.[12] This ruling was followed by the Oklahoma Court of Criminal Appeals in Schaffer v. Green.[13] In practice subsequent to this 1972 ruling, "child" was defined as anyone under the age of 18. The Oklahoma provision was revised in 1979 to align statutes with case law.[14]

In Radcliffe v. Anderson, the Tenth Circuit Court gave retroactive effect to its prior decision declaring void the Oklahoma statute allowing differential benefits of juvenile status to females and males.[15] This ruling was applied retroactively by the Oklahoma Court of Criminal Appeals in Edwards v. State.[16]

In 1973, the Oklahoma Court of Criminal Appeals held, in Sherfield v. State, that the certification statute was not unconstitutionally vague.[17] Further, the court held that the certification statute and procedure were in conformity with the due process requirements set forth in Kent v. United States.[18] In addition, the court incorporated into Oklahoma law the standards or factors listed in the appendix to the Kent decision. In interpreting these guidelines, the court held, in J.T.P. v. State, that it was not necessary for a valid certification order that each of these factors be decided against the juvenile.[19] (See also, B.M.R. v. State.[20]) Further, the court stated that the juvenile courts must find that there is prosecutive merit to the case. (See also, Matter of Sanders.[21]) The court held, in Berryhill v. State, that the standard for finding prosecutive merit is the same standard that is applied in certification determinations, i.e., that a crime has been committed and that there are reasonable grounds to believe that the juvenile committed the crime.[22] The court also held that the juvenile courts must determine the juveniles to be nonamenable to rehabilitation by the available programs and facilities.

In Calhoun v. State, the court held that juvenile courts are not required, in a certification hearing, to give conclusive weight to the testimony of expert witnesses.[23] (See also, Matter of R.M.[24]) Further, the court held that the

certification order must be supported by substantial evidence. (See also, Shelton v. State.[25])

The court held, in Hainta v. State, that failure to give notice to the parents of the juvenile and the failure to make findings concerning the prosecutive merit and amenability to rehabilitation were fatal defects in the certification hearing.[26] (For a detailed discussion of a juvenile's right to the assistance of counsel in a certification hearing, see Matter of M.E.[27])

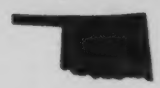
In L.D.F. v. State, the Oklahoma Court of Criminal Appeals reversed a certification order because of prejudicial delay on the part of the state.[28] The court took note of the fact that the petition was filed seven months after the incident, and that the motion to certify was filed 11 months later. (See also, S.H. v. State.[29]) The court also held, in Matter of R.G.M., that the state may appeal a juvenile court's denial of its request for an evidentiary hearing on the issue of certification.[30]

Finally, the Oklahoma legislature, in 1978, enacted legislation which provided that 16 and 17 year olds who were charged with one of a number of specified serious offenses be considered as adults if probable cause is established.[31] After filing in adult court, the offender could, however, petition for certification to juvenile court. In State ex rel. Coats v. Johnson, the Oklahoma Court of Criminal Appeals upheld a lower court's determination that this provision was unconstitutionally vague, lacking clarity as to what type of legal mechanism it was stipulating.[32]

Juvenile Court Dispositional Options

In Oklahoma, only Tulsa and Oklahoma Counties operate local juvenile detention facilities. Juveniles in the remaining 75 counties are detained in jails. Juveniles sentenced by the juvenile courts may be committed to the Bureau of Institutions and Community Services to Children and Youth, an agency of the State Department of Institutions, Social and Rehabilitative Services.

When individuals are tried as juveniles, the sentencing options include probation to the juvenile's own home or to foster homes. They may also be sent to one of a number of minimum-security training schools. Probation, both supervised and unsupervised, is used quite often at the juvenile level. There are currently no provisions that allow the administrative transfer of juveniles from juvenile correctional facilities to adult correctional facilities in Oklahoma.



PROCEDURES FOR TRYING YOUTH AS ADULTS IN 1978

Court Organization

The highest courts of general jurisdiction in Oklahoma are district courts. There are 24 districts with court locations in each of the 77 counties. The district courts have jurisdiction over criminal misdemeanors and felonies; probate; juvenile matters; domestic relations; civil matters, including small claims and forcible entry and detainer; state traffic violations; etc. Municipal courts have original jurisdiction over ordinance violations.

Juvenile jurisdiction is vested in the juvenile division of district courts, hereinafter referred to as juvenile courts. District courts and municipal courts share concurrent jurisdiction with juvenile courts over routine state or municipal traffic law or municipal ordinance violations by juveniles.

An overview of Oklahoma's courts by their jurisdiction over juveniles appears below.

OKLAHOMA: COURT JURISDICTION OVER JUVENILES IN 1978

General Juvenile Jurisdiction	Jurisdiction over Transferred Juveniles	Juvenile Traffic
Juvenile Divisions of District Courts	Criminal Divisions of District Courts	Juvenile Divisions of District Courts Traffic Divisions of District Courts Municipal Courts

Transfer Process

In Oklahoma, the statutorily defined maximum age of initial juvenile court jurisdiction in 1978 extended to 16 years of age for boys and 18 years of age for girls.[33] However, the U.S. Court of Appeals for the Tenth Circuit, in Lamb v. Brown, stated in 1972 that this provision violated the equal protection clause of the U.S. Constitution.[34] As a result, in practice, the maximum age was considered 18-years-old for both sexes. The statute was amended in 1979 to reflect current practices.[35]

Prior to October 1, 1978, juveniles in Oklahoma could be tried in adult courts in two ways. First, youth charged with felonies could be certified to adult courts upon the juvenile courts' own motion or the district attorney's motion, after a hearing in juvenile courts. Second, there was concurrent jurisdiction between juvenile courts, district courts and municipal courts where juveniles were charged with the violation of state or municipal traffic laws or ordinances.36

Judicial Waiver

Prior to October 1, 1978, the Oklahoma juvenile courts had to consider the following guidelines before certifying youth under 18 to adult courts, when charged with any felony.

1. The seriousness of threat to the community;

2. Whether the alleged offense was committed in an aggressive, violent, premeditated or willful manner:

3. Whether the offense was against persons or property, with greater weight being given to offenses against persons, especially if personal injury resulted;

4. Whether there was prosecutorial merit to the complaint;

5. The desirability of trial and disposition of the entire offense in one court when the juvenile's associates in the alleged offense were adults;

6. The sophistication and maturity of the juvenile as determined by consideration of his home, environmental situation, emotional attitude, and pattern of living;

7. The record and previous history of the juvenile, including previous contacts with community agencies, law enforcement agencies, schools, juvenile courts and other jurisdictions, and prior periods of probation or commitments to juvenile institutions; and

8. The prospects for adequate protection of the public and the likelihood of reasonable rehabilitation of the juvenile, if he is found to have committed the alleged offense, by the use of procedures and facilities currently available to the juvenile court.37

At the conclusion of the hearing, the juvenile courts can proceed with the adjudication as a juvenile, or it may certify the juvenile to stand trial as an adult. If the decision is made to certify, the court must set down its reasons in writing. The juvenile proceeding is not dismissed until proceedings have begun in the adult criminal division. If the adult proceeding does not begin

within 30 days, however, the certification will lapse, and the proceeding will continue in juvenile court.

It is possible for juvenile cases to be pended after the prosecutive merit hearing. This is a final effort on the part of the courts to keep juveniles out of the adult court system. If the juvenile is subsequently charged with an offense, further investigation and a hearing are held and the case is continued in adult courts. If the youth has no further contact with the courts, the case is dismissed.

Once the juvenile has been certified to stand trial in the adult courts and has been subsequently convicted, the youth will no longer be subject to the jurisdiction of the juvenile courts in any future proceedings.

Effective October 1, 1978, the Oklahoma certification procedure was amended in two ways. First, the guidelines were changed slightly. The sixth factor was altered to read that:

> The sophistication and maturity of the juvenile and his capability for distinguishing right from wrong as determined by his psychological evaluation, home, environmental situation, emotional attitude and pattern of living.[38]

Also, factor five in the guidelines was eliminated.

In addition, a second judicial certification provision was added for serious felonies. Unlike an excluded offense provision, it still gave discretion to the juvenile courts. It stated:

> If the court finds that probable cause exists to believe that a 16- or 17-year-old defendant is guilty of murder, kidnapping for purposes of extortion, robbery with a dangerous weapon, rape in the second degree, use of firearm or other offensive weapon while committing a felony, arson in the first degree, burglary in the first degree, burglary with explosives, shooting with intent to kill, manslaughter, or non-consensual sodomy, the child shall be certified as an adult unless it is proven . . . . to the satisfaction of the court that he should remain under the jurisdiction of the juvenile division.[39]

In 1979, this second post-October 1, 1978 change in the certification provision was declared unconstitutionally vague by the Oklahoma Court of Criminal Appeals.[40] It was replaced on June 5, 1979 by an excluded offense provision.

> Any person, 16 or 17 years of age charged with any of the above offenses, except burglary in the first degree, shall be considered an adult. The youth may request certification back to juvenile court. The court shall give consideration to the guidelines specified in the 1978 legislation except consideration need not be given to the sophistication and maturity of the juvenile or to

reasonable rehabilitation of the juvenile in juvenile facilities.[41] (Emphasis added.)

The judicial certification provision for any felony remained unchanged.

Concurrent Jurisdiction

In Oklahoma, juvenile courts, district courts' traffic divisions, and municipal courts share concurrent jurisdiction over juveniles charged with violation of state or municipal traffic laws or municipal ordinance violations. It was reported by state sources that prosecutors routinely refer juvenile traffic cases to the adult courts.

Role of the Prosecutors

The prosecutors play a significant role in the certification process, particularly in deciding what charges to file. The charge determines original court jurisdiction under the excluded offenses provisions. In reverse certification hearings, the prosecutors' discretion is used to resist or allow the transfer from adult to juvenile courts. If the adult court denies the request, the motion is nonappealable. The prosecutors also initiate the certification process by requesting the transfer to adult courts.

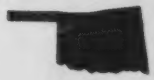
Defender Services

Juveniles must meet indigency requirements in order to be assigned to a public defender. Both juvenile and parental status determine eligibility. If the requirements are met, a public defender is assigned at the arraignment and is kept throughout the certification process. In the event a problem arises with the assigned public defender, the court may appoint and pay for a private attorney.

Confinement Practices

Detention Practices

Juveniles 16 or 17 years old charged with one of the excluded offenses are detained in jails and segregated from persons 18 years of age or older.[35] All



other juveniles, including youth tried as adults, are detained in juvenile detention. As discussed above (see Juvenile Court Dispositional Options subsection), only Tulsa and Oklahoma Counties operate detention facilities. Therefore, juveniles in the remaining 75 counties are detained in jails.

Sentencing Options

Adult offenders in Oklahoma may be committed to the Department of Corrections. Youth convicted in adult courts are treated as adults for all purposes and, once assigned to an adult facility, there are no provisions for transfer to a juvenile corrections facility.

However, youth who are tried as adults may receive deferred sentences and be given supervised adult probation in the community. The state also maintains a young adult facility for youth under 25 years of age, including youth certified to and convicted in adult courts.

STATE DATA SUMMARY

In Oklahoma, there were two legal mechanisms by which juveniles appeared in adult courts in 1978. First, juveniles charged with felonies could be judicially certified to adult courts after a hearing in juvenile courts. (This includes the provision change, effective October 1, 1978, which was replaced in 1979.) Second, traffic, alcohol, conservation, and minor misdemeanor offenses could be tried in adult courts under the concurrent jurisdiction provision.

Table 37-1A is a county breakdown of youth judicially certified to adult courts in Oklahoma provided by the Oklahoma Crime Commission. As mentioned in the Methodology section, youth who were 18 years of age or older by the time they were certified are not included in this or subsequent tables, due to the Academy's inability to delineate these youth among the adult court cases provided on the state-supplied data tape. In addition, individuals under 18 years old who were tried in adult courts due to traffic or conservation violations or misdemeanors which are subject to concurrent jurisdiction will be discussed in a later section of this profile.

In 1978, 181 youth under 18 years old were certified to adult courts for a state certification rate of 3.96 youth per 10,000 juvenile population. Three counties, Le Flore, Oklahoma, and Tulsa, each reported ten waivers or more. The two most populous counties, Tulsa and Oklahoma, represented 34 percent (62) of the state total of waivers. However, higher rates of certification appear in the less-populated counties of Oklahoma, Alfalfa County with an estimated juvenile population of less than 1,000 and a dramatically high certification rate of 92.78 per 10,000 juveniles being an extreme example.

TABLE 37-1A. OKLAHOMA: REFERRALS OF JUVENILES TO ADULT COURTS IN 1978 (BY COUNTY, RATE, AND LEGAL MECHANISM) AS REPORTED BY THE OKLAHOMA CRIME COMMISSION

County	Juvenile Population (Ages 8-17)[a]	Judicial Waiver	
		Cases[b]	Rate[c]
Adair	3,231	2	6.190
Alfalfa	970	9	92.783
Atoka	1,892	0	0.000
Beaver	1,004	1	9.960
Beckham	2,288	1	4.371
Blaine	1,879	0	0.000
Bryan	3,883	5	12.877
Caddo	5,820	3	5.155
Canadian	7,522	0	0.000
Carter	6,859	8	11.664
Cherokee	4,377	0	0.000
Choctaw	3,139	0	0.000
Cimarron	705	0	0.000
Cleveland	16,599	0	0.000
Coal	994	0	0.000
Comanche	19,139	9	4.702
Cotton	1,042	3	28.791
Craig	2,128	1	4.699
Creek	8,942	0	0.000
Custer	3,100	1	3.226
Delaware	3,438	0	0.000
Dewey	907	0	0.000
Ellis	855	1	11.696
Garfield	9,445	2	2.118
Garvin	4,499	1	2.223
Grady	5,833	1	1.714
Grant	998	0	0.000
Greer	1,045	0	0.000
Harmon	721	1	13.870
Harper	816	0	0.000
Haskell	1,648	0	0.000
Hughes	2,120	1	4.717
Jackson	6,457	0	0.000
Jefferson	1,181	0	0.000
Johnston	1,262	0	0.000

TABLE 37-1A. (Continued)

County	Juvenile Population (Ages 8-17)[a]	Judicial Waiver Cases[b]	Judicial Waiver Rate[c]
Kay	7,396	1	1.352
Kingfisher	2,381	3	12.600
Kiowa	1,808	1	5.531
Latimer	1,563	4	25.592
LeFlore	6,156	10	16.244
Lincoln	3,721	1	2.687
Logan	3,678	2	5.438
Love	1,093	0	0.000
McClain	3,435	0	0.000
McCurtain	7,325	1	1.365
McIntosh	2,039	1	4.904
Major	1,379	0	0.000
Marshall	1,360	1	7.353
Mayes	4,496	7	15.569
Murray	1,631	5	30.656
Muskogee	10,694	1	0.935
Noble	1,805	0	0.000
Nowata	1,684	0	0.000
Okfuskee	2,066	0	0.000
Oklahoma	90,251	39	4.321
Okmulgee	5,805	0	0.000
Osage	5,146	3	5.830
Ottawa	4,916	2	4.068
Pawnee	1,977	5	25.291
Payne	6,776	5	7.379
Pittsburg	5,724	1	1.747
Pontotoc	4,467	3	6.716
Pottawatomie	8,266	0	0.000
Pushmataha	1,998	1	5.005
Roger Mills	729	0	0.000
Rogers	6,417	0	0.000
Seminole	4,673	1	2.140
Sequoyah	5,379	0	0.000
Stephens	6,091	4	6.567
Texas	3,151	1	3.174

TABLE 37-1A. (Continued)

County	Juvenile Population (Ages 8-17)[a]	Judicial Waiver Cases[b]	Judicial Waiver Rate[c]
Tillman	2,230	0	0.000
Tulsa	72,885	23	3.156
Wagoner	5,071	1	1.972
Washington	6,618	3	4.533
Washita	2,021	0	0.000
Woods	1,362	0	0.000
Woodward	2,793	1	3.580
Total	457,194	181	3.959

a. 1978 population estimates were developed by the National Center for Juvenile Justice using data from two sources: the 1970 national census and the National Cancer Institute 1975 estimated aggregate census.

b. Includes youth certified to adult courts under the October 1, 1978 statute changes which have since been repealed and replaced. Youth who were 18 years old by the time they were certified are not included.

c. Rate per 10,000 juveniles eight to 17 years old (1978).

Table 37-1B shows the number of youth certified to adult courts, as reported by a second state source in Oklahoma (the Administrative Office of the Judiciary). In total, 227 youth were reported by this source, for a judicial certification rate of 4.97 per 10,000 juveniles in Oklahoma. The difference in the two state-supplied totals may be due to either different reporting procedures or to the inclusion of youth who were certified in 1978 after reaching age 18, for an offense committed before reaching the age of majority, in the data shown in Table 37-1B. Phase II data on these cases were not available.

TABLE 37-1B. OKLAHOMA: REFERRALS OF JUVENILES TO ADULT COURTS IN 1978 (BY COUNTY, RATE, AND LEGAL MECHANISM) AS REPORTED BY THE ADMINISTRATIVE OFFICE OF THE JUDICIARY

County	Juvenile Population (Ages 8-17)[a]	Judicial Waiver Cases[b]	Judicial Waiver Rate[c]
Adair	3,231	0	0.000
Alfalfa	970	8	82.474
Atoka	1,892	0	0.000
Beaver	1,004	1	9.960
Beckham	2,288	0	0.000
Blaine	1,879	0	0.000
Bryan	3,883	7	18.027
Caddo	5,820	2	3.436
Canadian	7,522	0	0.000
Carter	6,859	11	16.037
Cherokee	4,377	0	0.000
Choctaw	3,139	1	3.186
Cimarron	705	0	0.000
Cleveland	16,599	0	0.000
Coal	994	0	0.000
Comanche	19,139	14	7.315
Cotton	1,042	0	0.000
Craig	2,128	1	4.699
Creek	8,942	2	2.237
Custer	3,100	0	0.000
Delaware	3,438	0	0.000
Dewey	907	0	0.000
Ellis	855	1	11.696
Garfield	9,445	2	2.118
Garvin	4,499	0	0.000
Grady	5,833	0	0.000
Grant	998	0	0.000
Greer	1,045	2	19.139
Harmon	721	0	0.000
Harper	816	0	0.000

TABLE 37-1B. (Continued)

County	Juvenile Population (Ages 8-17)[a]	Judicial Waiver Cases[b]	Judicial Waiver Rate[c]
Haskell	1,648	0	0.000
Hughes	2,120	1	4.717
Jackson	6,457	0	0.000
Jefferson	1,181	0	0.000
Johnston	1,262	0	0.000
Kay	7,396	2	2.704
Kingfisher	2,381	4	16.800
Kiowa	1,808	3	16.593
Latimer	1,563	4	12.796
LeFlore	6,156	3	4.873
Lincoln	3,721	0	0.000
Logan	3,678	3	8.157
Love	1,093	2	18.298
McClain	3,435	2	5.822
McCurtain	7,325	4	5.461
McIntosh	2,039	3	14.713
Major	1,379	0	0.000
Marshall	1,360	1	7.353
Mayes	4,496	5	11.121
Murray	1,631	2	12.262
Muskogee	10,694	2	1.870
Noble	1,805	0	0.000
Nowata	1,684	0	0.000
Okfuskee	2,066	0	0.000
Oklahoma	90,251	58	6.427
Okmulgee	5,805	0	0.000
Osage	5,146	1	1.943
Ottawa	4,916	3	6.103
Pawnee	1,977	2	10.116
Payne	6,776	3	4.427
Pittsburg	5,724	7	12.229
Pontotoc	4,467	2	4.477
Pottawatomie	8,266	6	7.259
Pushmataha	1,998	0	0.000
Roger Mills	729	0	0.000

TABLE 37-1B. (Continued)

County	Juvenile Population (Ages 8-17)[a]	Judicial Waiver Cases[b]	Judicial Waiver Rate[c]
Rogers	6,417	0	0.000
Seminole	4,673	1	2.140
Sequoyah	5,379	0	0.000
Stephens	6,091	6	9.851
Texas	3,151	1	3.174
Tillman	2,230	1	4.484
Tulsa	72,885	38	5.214
Wagoner	5,071	0	0.000
Washington	6,618	5	7.555
Washita	2,021	0	0.000
Woods	1,362	0	0.000
Woodward	2,793	2	7.161
Total	457,194	227	4.965

a. 1978 population estimates were developed by the National Center for Juvenile Justice using data from two sources: the 1970 national census and the National Cancer Institute 1975 estimated aggregate census.

b. Includes youth certified to adult courts under the October 1, 1978 statute changes which have since been repealed and replaced.

c. Rate per 10,000 juveniles eight to 17 years old (1978).

This section contains a series of tables and a brief discussion pertaining to the Phase II information on Oklahoma youth under 18 judicially certified during 1978 as reported by the Oklahoma Crime Commission. Table 37-2 shows that in Oklahoma, Phase II data were available from this source for all counties in the state which were reported to have judicially certified youth in 1978. Thirty-two counties (42 percent) of the 77 in the state were determined to have made no certifications in 1978.

TABLE 37-2. OKLAHOMA: RELATIONSHIP OF PHASE II COUNTIES TO ALL COUNTIES, BASED UPON 1978 POPULATION ESTIMATES AND DATA

	Juvenile Population (Ages 8-17)[a]	Number of Counties Judicial Waiver	Number of Referrals Judicial Waiver[b]
State	457,194	77	181
Selected for Phase II Investigation	457,194	77	181
Percentage of State Selected for Phase II Investigation	100%	100%	100%

a. 1978 population estimates were developed by the National Center for Juvenile Justice using data from two sources: the 1970 national census and the National Cancer Institute 1975 estimated aggregate census.

b. Does not include youth who were 18 years old by the time they were certified to adult courts for offenses committed before age 18.

Table 37-3 is a demographic breakdown--age, sex, race--of youth judicially certified to adult courts in Oklahoma. Nearly 83 percent (150) were 17 years old and 17 percent (30) were 16; one youth was 15. Where sex and race were known, 91 percent (164) were males, 72 percent (125) were white, and 28 percent (49) were minority youth. Again it should be noted that youth over age 17 by the time they were certified could not be isolated from other over-17 cases on the supplied data tape and, therefore, have not been included.

TABLE 37-3. OKLAHOMA: JUDICIAL WAIVERS TO ADULT COURTS (BY COUNTY AND BY AGE, SEX, AND RACE) IN 1978

County	Total Waivers	Age				Sex			Race		
		0-15	16	17	18+	Male	Female	Un-known	White	Minor-ity	Un-known
Adair	2	0	0	2	0	0	2	0	1	1	0
Alfalfa	9	0	3	6	0	9	0	0	8	1	0
Atoka	0	0	0	0	0	0	0	0	0	0	0
Beaver	1	0	0	1	0	1	0	0	1	0	0
Beckham	1	0	0	1	0	1	0	0	1	0	0
Blaine	0	0	0	0	0	0	0	0	0	0	0
Bryan	5	0	0	5	0	5	0	0	5	0	0
Caddo	3	0	0	3	0	3	0	0	0	3	0
Canadian	0	0	0	0	0	0	0	0	0	0	0
Carter	8	0	0	8	0	8	0	0	5	3	0
Cherokee	0	0	0	0	0	0	0	0	0	0	0
Choctaw	0	0	0	0	0	0	0	0	0	0	0
Cimarron	0	0	0	0	0	0	0	0	0	0	0
Cleveland	0	0	0	0	0	0	0	0	0	0	0
Coal	0	0	0	0	0	0	0	0	0	0	0
Comanche	9	0	1	8	0	6	3	0	4	3	2
Cotton	3	0	1	2	0	3	0	0	2	*	1
Craig	1	0	0	1	0	1	0	0	1	0	0
Creek	0	0	0	0	0	0	0	0	0	0	0
Custer	1	0	1	0	0	1	0	0	0	1	0
Delaware	0	0	0	0	0	0	0	0	0	0	0
Dewey	0	0	0	0	0	0	0	0	0	0	0
Ellis	1	0	1	0	0	1	0	0	1	0	0
Garfield	2	0	0	2	0	2	0	0	2	0	0
Garvin	1	0	0	1	0	1	0	0	*	*	1
Grady	1	0	0	1	0	1	0	0	1	0	0
Grant	0	0	0	0	0	0	0	0	0	0	0
Greer	0	0	0	0	0	0	0	0	0	0	0
Harmon	1	0	0	1	0	*	*	1	*	*	1
Harper	0	0	0	0	0	0	0	0	0	0	0
Haskell	0	0	0	0	0	0	0	0	0	0	0
Hughes	1	0	0	1	0	1	0	0	0	1	0
Jackson	0	0	0	0	0	0	0	0	0	0	0
Jefferson	0	0	0	0	0	0	0	0	0	0	0
Johnston	0	0	0	0	0	0	0	0	0	0	0
Kay	1	0	1	0	0	1	0	0	0	1	0
Kingfisher	3	0	2	1	0	3	0	0	2	1	0
Kiowa	1	0	1	0	0	1	0	0	0	1	0
Lattimer	4	0	0	4	0	4	0	0	4	0	0
LeFlore	10	0	0	10	0	0	0	0	10	0	0
Lincoln	1	0	1	0	0	1	0	0	*	*	1
Logan	2	0	0	2	0	2	0	0	2	0	0
Love	0	0	0	0	0	0	0	0	0	0	0
McClain	0	0	0	0	0	0	0	0	0	0	0
McCurtain	1	0	0	1	0	1	0	0	1	0	0
McIntosh	1	0	0	1	0	0	1	0	1	0	0
Major	0	0	0	0	0	0	0	0	0	0	0
Marshall	1	0	0	1	0	1	0	0	1	0	0
Mayes	7	0	1	6	0	6	1	0	6	1	0
Murray	5	0	2	3	0	5	0	0	5	0	0

TABLE 37-3. (Continued)

County	Total Waivers	Age				Sex			Race		
		0-15	16	17	18+	Male	Female	Un-known	White	Minor-ity	Un-known
Muskogee	1	0	0	1	0	1	0	0	1	0	0
Noble	0	0	0	0	0	0	0	0	0	0	0
Nowata	0	0	0	0	0	0	0	0	0	0	0
Okfuskee	0	0	0	0	0	0	0	0	0	0	0
Oklahoma	39	0	8	31	0	38	1	0	22	17	0
Okmulgee	0	0	0	0	0	0	0	0	0	0	0
Osage	3	0	0	3	0	2	1	0	3	0	0
Ottawa	2	0	0	2	0	2	0	0	1	*	1
Pawnee	5	0	0	5	0	5	0	0	2	3	0
Payne	5	0	0	5	0	3	2	0	5	0	0
Pittsburg	1	0	1	0	0	1	0	0	1	0	0
Pontotoc	3	0	0	3	0	3	0	0	3	0	0
Pottawatomie	0	0	0	0	0	0	0	0	0	0	0
Pushmataha	1	0	0	1	0	1	0	0	1	0	0
Roger Mills	0	0	0	0	0	0	0	0	0	0	0
Rogers	0	0	0	0	0	0	0	0	0	0	0
Seminole	1	0	0	1	0	1	0	0	0	1	0
Sequoyah	0	0	0	0	0	0	0	0	0	0	0
Stephens	4	0	1	3	0	4	0	0	4	0	0
Texas	1	0	0	1	0	1	0	0	1	0	0
Tillman	0	0	0	0	0	0	0	0	0	0	0
Tulsa	23	1	2	20	0	19	4	0	14	9	0
Wagoner	1	0	0	1	0	1	0	0	1	0	0
Washington	3	0	2	1	0	2	1	0	1	2	0
Washita	0	0	0	0	0	0	0	0	0	0	0
Woods	0	0	0	0	0	0	0	0	0	0	0
Woodward	1	0	1	0	0	1	0	0	1	0	0
State Total	181	1	30	150	0	164	16	1	125	49	7

* denotes Not Available.

Table 37-4 reflects a county breakdown of charges for those counties with judicial certifications in 1978. Property offenses (burglary and other property) represented the largest offense category with 56 percent (101). The "other property" category included larceny, auto theft, fraud, bogus checks, forgery, trespassing, and receiving or possessing stolen property. Personal offenses, which included murder, manslaughter, rape, robbery, aggravated assault, and other personal offenses represented the next largest category with 39 percent (71). "Other personal" offenses included escape, arson, sex offenses, and firearms violations. Public order offenses, which included pandering, impersonating another, issuing forged documents, alcohol and drug violations, represented five percent (9) of the total offenses. Figure 37-1 graphically depicts these offenses by percentage.

TABLE 37-4. OKLAHOMA: JUDICIAL WAIVERS TO ADULT COURTS (BY COUNTY AND BY TYPES OF OFFENSES) IN 1978

County	Total Waivers	Offenses[a]									
		Murder/ Man-slaugh-ter	Rape	Rob-bery	As-sault/ Bat-tery	Aggra-vated As-sault	Other Per-sonal	Bur-glary	Other Prop-erty	Public Order	Other General
Adair	2	0	0	0	0	0	0	0	2	0	0
Alfalfa	9	0	0	3	0	1	0	0	5	0	0
Beaver	1	0	0	0	0	0	0	1	0	0	0
Beckham	1	0	0	0	0	0	0	0	1	0	0
Bryan	5	0	0	0	0	0	0	1	3	1	0
Caddo	3	0	1	0	0	0	0	0	2	0	0
Carter	8	0	0	0	0	1	1	3	3	0	0
Comanche	9	0	0	0	0	1	0	1	4	3	0
Cotton	3	0	0	0	0	1	0	1	1	0	0
Craig	1	0	0	0	0	0	0	0	1	0	0
Custer	1	0	0	0	0	0	0	1	0	0	0
Ellis	1	0	0	0	0	0	0	0	1	0	0
Garfield	2	0	0	0	0	1	0	0	1	0	0
Garvin	1	0	0	0	0	0	0	0	1	0	0
Grady	1	0	0	0	0	0	0	1	0	0	0
Harmon	1	0	0	0	0	0	0	0	1	0	0
Hughes	1	0	0	0	0	0	0	1	0	0	0
Kay	1	1	0	0	0	0	0	0	0	0	0
Kingfisher	3	0	0	0	0	1	0	2	0	0	0
Kiowa	1	0	0	0	0	0	0	1	0	0	0
Latimer	4	0	0	0	0	0	0	3	1	0	0
LeFlore	10	0	1	0	0	1	1	5	2	0	0
Lincoln	1	0	0	1	0	0	0	0	0	0	0
Logan	2	0	0	0	0	0	0	1	1	0	0
McCurtain	1	1	0	0	0	0	0	0	0	0	0

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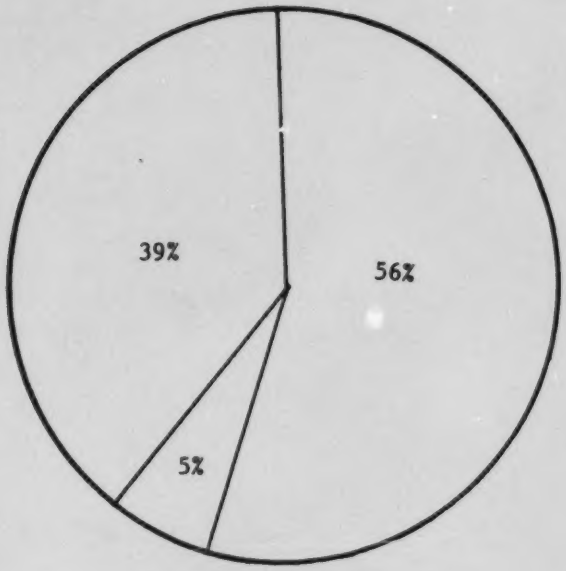
TABLE 37-4. (Continued)

County	Total Waivers	Offenses[a]									
		Murder/ Man- slaugh- ter	Rape	Rob- bery	As- sault/ Bat- tery	Aggra- vated As- sault	Other Per- sonal	Bur- glary	Other Prop- erty	Public Order	Other General
McIntosh	1	0	0	0	0	0	0	0	1	0	0
Marshall	1	0	0	1	0	0	0	0	0	0	0
Mayes	7	0	0	3	0	0	0	1	2	1	0
Murray	5	0	0	0	0	0	0	4	1	0	0
Muskogee	1	0	0	0	0	0	0	1	0	0	0
Oklahoma	39	2	2	20	0	4	1	4	5	1	0
Osage	3	0	0	1	0	1	1	0	0	0	0
Ottawa	2	0	1	0	0	0	0	1	0	0	0
Pawnee	5	0	0	0	0	0	0	4	0	1	0
Payne	5	0	0	1	0	0	0	1	3	0	0
Pittsburg	1	0	0	0	0	0	0	0	0	1	0
Pontotoc	3	0	0	0	0	0	0	1	1	1	0
Pushmataha	1	0	0	0	0	0	0	0	1	0	0
Seminole	1	0	0	0	0	0	0	0	1	0	0
Stephens	4	0	0	0	0	1	0	3	0	0	0
Texas	1	0	0	0	0	0	0	0	1	0	0
Tulsa	23	2	1	6	0	2	2	4	6	0	0
Wagoner	1	0	0	0	0	0	0	1	0	0	0
Washington	3	0	0	1	0	0	1	0	1	0	0
Woodward	1	0	0	0	0	0	0	1	0	0	0
State Total	181	6	6	37	0	15	7	48	53	9	0

a. Only most serious offense per individual listed.

FIGURE 37-1. OKLAHOMA: PERCENTAGE OF JUDICIAL WAIVERS TO ADULT COURTS (BY OFFENSE CATEGORY) IN 1978



Offenses[a]

Personal	39%
Property	56%
Public Order	5%
Other General	0%

N = 181

a. Violent offenses (murder, manslaughter, rape, robbery, and aggravated assault) represent 35 percent of all offenses in the state.

Judgments of youth tried in adult courts after judicial certification are shown in Table 37-5. Among the known judgments, 94 youth (58 percent) were determined to be guilty and 39 (24 percent) had their cases dismissed. It could not be determined what proportion of these dismissals were due to successful completion of a pre-trial, informal probation period, where, after a youth signs a deferred prosecution contract with the district attorney, good behavior for a designated time period results in the case being dropped. Among the 28 youth with "other" determinations, 24 had their cases held open or continued, two had additional bench warrants issued, one did not appear for trial and one was extradited. Twenty judgments were not available from the data tape provided by state sources.

TABLE 37-5. OKLAHOMA: JUDICIAL WAIVERS TO ADULT COURTS (BY COUNTY AND BY JUDGMENTS) IN 1978

County	Total Waivers	Judgments					
		Not Guilty	Dismissed	Referred to Juvenile Court	Guilty	Other[a]	Unknown
Adair	2	0	0	0	2	0	0
Alfalfa	9	*	*	*	7	1	1
Beaver	1	0	0	0	1	0	0
Beckham	1	0	1	0	0	0	0
Bryan	5	*	1	*	3	*	1
Caddo	3	0	2	0	1	0	0
Carter	8	*	1	*	6	*	1
Comanche	9	*	3	*	4	1	1
Cotton	3	0	1	0	2	0	0
Craig	1	*	*	*	*	*	1
Custer	1	*	*	*	*	*	1
Ellis	1	0	0	0	1	0	0
Garfield	2	0	0	0	2	0	0
Garvin	1	0	1	0	0	0	0
Grady	1	0	0	0	1	0	0
Harmon	1	0	1	0	0	0	0
Hughes	1	0	0	0	1	0	0
Kay	1	0	0	0	0	1	0
Kingfisher	3	0	1	0	1	1	0
Kiowa	1	0	0	0	1	0	0
Latimer	4	0	1	0	3	0	0
LeFlore	10	*	*	*	9	*	1
Lincoln	1	*	*	*	*	*	1
Logan	2	0	1	0	1	0	0
McCurtain	1	0	0	0	0	1	0
McIntosh	1	0	0	0	1	0	0
Marshall	1	0	0	0	1	0	0
Mayes	7	*	*	*	4	*	3
Murray	5	0	2	0	3	0	0
Muskogee	1	0	0	0	0	1	0
Oklahoma	39	0	9	0	14	16	0
Osage	3	0	0	0	2	1	0
Ottawa	2	0	0	0	2	0	0
Pawnee	5	0	1	0	4	0	0
Payne	5	0	3	0	2	0	0

TABLE 37-5. (Continued)

County	Total Waivers	Judgments					
		Not Guilty	Dismissed	Referred to Juvenile Court	Guilty	Other[a]	Unknown
Pittsburg	1	0	1	0	0	0	0
Pontotoc	3	0	0	0	3	0	0
Pushmataha	1	0	1	0	0	0	0
Seminole	1	0	0	0	0	1	0
Stephens	4	0	3	0	1	0	0
Texas	1	0	1	0	0	0	0
Tulsa	23	*	4	*	11	*	8
Wagoner	1	*	*	*	*	*	1
Washington	3	0	0	0	0	3	0
Woodward	1	0	0	0	0	1	0
State Total	181	0	39	0	94	28	20

* denotes Not Available.

a. Twenty-four of these cases were held open or continued, two had additional bench warrants issued, one youth did not appear for trial, and one was extradited.

Sentences for convicted youth certified to adult courts in counties for which data were available appear in Table 37-6. Among the 94 youth, 65 percent (61) were sentenced to incarceration, four of these being to local facilities. Over 25 percent of these sentences were suspended, however, in total or in part. Thirty-three percent (31) of the convicted youth were given informal sentences. These included youth receiving deferred sentences. Two sentences were not determined from the data tape supplied by state sources.

TABLE 37-6. OKLAHOMA: SENTENCES REPORTED FOR CONVICTIONS ARISING FROM JUDICIAL WAIVERS TO ADULT COURTS IN COUNTIES REPORTED UPON (BY COUNTY AND SENTENCE TYPES) IN 1978

County	Total Convictions	Sentence Types[a]						
		Informal	Probation	Jail	State Adult Corrections Facilities	State Juvenile Corrections Facilities	Other	Unknown
Adair	2	2	0	0	0	0	0	0
Alfalfa	7	0	0	0	7	0	0	0
Beaver	1	1	0	0	0	0	0	0
Bryan	3	0	0	1	2	0	0	0
Caddo	1	0	0	0	1	0	0	0
Carter	6	4	0	0	2	0	0	0
Comanche	4	2	0	1	1	0	0	0
Cotton	2	1	0	0	1	0	0	0
Ellis	1	0	0	0	1	0	0	0
Garfield	2	0	0	0	2	0	0	0
Grady	1	1	0	0	0	0	0	0
Hughes	1	1	0	0	0	0	0	0
Kingfisher	1	0	0	0	1	0	0	0
Kiowa	1	0	0	0	1	0	0	0
Latimer	3	2	0	1	0	0	0	0
LeFlore	9	3	0	1	5	0	0	0
Logan	1	1	0	0	0	0	0	0
McIntosh	1	0	0	0	1	0	0	0
Marshall	1	1	0	0	0	0	0	0
Mayes	4	0	0	0	4	0	0	0
Murray	3	2	0	0	1	0	0	0
Oklahoma	14	3	0	0	11[a]	0	0	0
Osage	2	1	0	0	1	0	0	0
Ottawa	2	2	0	0	0	0	0	0
Pawnee	4	3	0	0	1	0	0	0
Payne	2	*	*	*	*	*	*	2
Pontotoc	3	0	0	0	3	0	0	0
Stephens	1	1	0	0	0	0	0	0
Tulsa	11	0	0	0	11	0	0	0
State Total	94	31	0	4	57	0	0	2

* denotes Not Available.

a. Includes sentences which were totally or partially suspended.

Table 37-7 shows the maximum sentence durations for youth given confinement sentences in Oklahoma adult courts. Among the 61 youth sentenced to incarceration, over 25 percent received partially or totally suspended sentences. Considering the maximum sentences they received, however, 84 percent (51) received terms of over one year confinement. Thirty-nine percent (24) received maximum terms of three years and 28 percent (17) received terms of over three to five years. In addition, six youth (10 percent) were given sentences of over five to ten years and four youth (7 percent) received maximum terms of over ten years incarceration.

TABLE 37-7. OKLAHOMA: LENGTH OF CONFINEMENT REPORTED FOR SENTENCES ARISING FROM JUDICIAL WAIVERS TO ADULT COURTS IN COUNTIES REPORTED UPON (BY COUNTY AND MAXIMUM SENTENCE) IN 1978

County	Total Confinements[a]	Sentence Maximums							
		One Year or Less	One+ to 3 Years	3+ to 5 Years	5+ to 10 Years	Over 10 Years	Indeterminate	Life	Death
Alfalfa	7	5	1	1	0	0	0	0	0
Bryan	3	1	2	0	0	0	0	0	0
Caddo	1	0	0	0	1	0	0	0	0
Carter	2	0	1	1	0	0	0	0	0
Comanche	2	1	1	0	0	0	0	0	0
Cotton	1	0	1	0	0	0	0	0	0
Ellis	1	0	0	0	1	0	0	0	0
Garfield	2	0	0	2	0	0	0	0	0
Kingfisher	1	0	1	0	0	0	0	0	0
Kiowa	1	0	0	1	0	0	0	0	0
Latimer	1	1	0	0	0	0	0	0	0
LeFlore	6	1	3	2	0	0	0	0	0
McIntosh	1	0	1	0	0	0	0	0	0
Mayes	4	0	2	1	0	1	0	0	0
Murray	1	0	0	1	0	0	0	0	0
Oklahoma	11	0	4	3	1	3	0	0	0
Osage	1	0	1	0	0	0	0	0	0
Pawnee	1	0	0	1	0	0	0	0	0
Pontotoc	3	1	1	1	0	0	0	0	0
Tulsa	11	0	5	3	3	0	0	0	0
State Total[a]	61	10	24	17	6	4	0	0	0

a. Over 25 percent of these sentences were partially or totally suspended.

Table 37-8 provides a summary of the number of cases reported in the preceding tables concerning total referrals to adult courts; the number selected for Phase II investigation; and findings concerning conviction and confinement practices applicable to these youth. Among the 181 youth determined to have been certified to adult courts in 1978, Phase II data were available on all cases. Ninety-four youth (52 percent) were convicted and 61 (65 percent) of the youth determined to be guilty were given sentences of incarceration.

TABLE 37-8. OKLAHOMA: SUMMARY OF TABLES (BY LEGAL MECHANISM)

	Judicial Waiver
Total Referrals to Adult Courts in 1978 (Table 37-1)	181
Total Referrals Selected for Phase II (Table 37-2)	181
Total Referrals Resulting in Convictions (Table 37-5)	94
Total Convictions Resulting in Sentences of Confinement (Table 37-6)	61

In summary, 83 percent of juveniles judicially certified in Oklahoma were 17 years old and 91 percent were males. White youth outnumbered minority youth, 72 percent to 28 percent. The majority of charges (56 percent) were property offenses. Sixty-five percent of convicted youth reported upon were given sentences of incarceration, with 93 percent of these sentenced to state adult corrections. However, jail and prison sentence totals included suspended terms and terms partially suspended.

The following section presents a series of tables comparing Phase II counties having juvenile populations over 15,000 (designated "urban") and Phase II counties of lesser population (designated "rural") based on the Oklahoma Crime Commission data. The urban counties include Cleveland, Comanche, Oklahoma, and Tulsa Counties.

Table 37-9 presents a comparison of age, sex, and race for youth judicially certified from urban and rural counties in 1978. Both groups of youth were predominantly 17-year-old and males. The only notable difference was in terms of race; while whites were the majority in both groups, whites were a greater majority in the rural counties.

TABLE 37-9. OKLAHOMA: PERCENT JUDICIAL WAIVERS TO ADULT COURTS (BY COUNTY SIZE, AGE, SEX, AND RACE) IN 1978

County Category	Total Waivers (Cases)	Percent Age			Percent Sex			Percent Race		
		0-15	16	17	Male	Female	Unknown	White	Minority	Unknown
Counties with juvenile populations over 15,000	71	1	11	59	63	8	0	40	29	2
Percent	100[a]	1	15	83	89	11	0	56	41	3
Counties with juvenile populations under 15,000	110	0	19	91	101	8	1	85	20	5
Percent	100	0	17	83	92	7	1	77	18	5

a. Categories not totaling 100 percent due to rounding-off.

There was a difference in the offenses for which youth were judicially certified in urban and rural counties, presented in Table 37-10. While personal offenses were the most serious charge for 61 percent of the youth certified in urban counties, personal offenses were charged against 25 percent of the youth from rural counties. Much of this difference resulted from differences in the percentages of robbery. Conversely, property offenses were the most serious charge for 70 percent of certified youth from rural counties and for 34 percent of certified youth from urban counties. The percentages of public order offenses were comparable.

It appears, therefore, that certification is more likely to be used for property offenses in rural counties, while it is more likely to be used for personal offenses in urban counties.

TABLE 37-10. OKLAHOMA: PERCENT JUDICIAL WAIVERS TO ADULT COURTS (BY COUNTY SIZE AND BY TYPE OF OFFENSES) IN 1978

County Category	Total Waivers	Murder Manslaughter	Rape	Robbery	Aggravated Assault	Other Personal	Burglary	Other Property	Public Order
Counties with juvenile populations over 15,000	71	4	3	26	7	3	9	15	4
Percent	100[a]	6	4	37	10	4	13	21	6
Counties with juvenile populations under 15,000	110	2	3	10	8	4	39	39	5
Percent	100	2	3	9	7	4	35	35	5

a. Categories not totaling 100 percent due to rounding-off.

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Table 37-11 presents a comparison of judgments in adult courts for certified youth from urban and rural counties. The major difference was in terms of cases held open, continued, etc. This difference makes other comparisons of judgments difficult and of questionable use.

TABLE 37-11. OKLAHOMA: PERCENT JUDICIAL WAIVERS TO ADULT COURTS (BY COUNTY SIZE AND BY JUDGMENTS IN ADULT COURTS) IN 1978

County Category	Total Waivers	Dismissed	Guilty	Other[a]	Unknown
Counties with juvenile populations over 15,000	71	16	29	17	9
Percent	100[b]	23	41	24	13
Counties with juvenile populations under 15,000	110	23	65	11	11
Percent	100	21	59	10	10

a. This category is composed of cases held open or continued, where additional bench warrants were issued, where the youth did not appear for trial and one case which was extradited.

b. Categories not totaling 100 percent due to rounding-off.

The differences in sentences received in adult courts for certified youth from urban and rural counties, presented in Table 37-12, reflects the greater proportion of personal offenses in the urban counties. Commitment to state adult corrections facilities was the largest category for both groups. However, such commitments comprised 79 percent of the sentences for certified youth from urban counties who were convicted in adult courts, while commitments to adult corrections facilities comprised 52 percent of sentences for youth from rural counties. Furthermore, 40 percent of the youth from rural counties received informal sentences while 17 percent of youth from urban counties received such sentences.

TABLE 37-12. OKLAHOMA: PERCENT JUDICIAL WAIVERS TO ADULT COURTS (BY COUNTY SIZE AND BY SENTENCE TYPE) IN 1978

County Category	Total Convictions	Informal	Jail	State Adult Corrections Facilities	Unknown
Counties with juvenile populations over 15,000	29	5	1	23a	0
Percent	100b	17	3	79	0
Counties with juvenile populations under 15,000	65	26	3	34	2
Percent	100	40	5	52	3

a. Includes up to 11 sentences which were totally or partially suspended.

b. Categories not totaling 100 percent due to rounding-off.

Finally, the differences in incident offenses for youth from urban and rural counties is reflected in the maximum sentences received when convicted in adult courts and sentenced to confinement, presented in Table 37-13. Ninety-two percent of the youth from rural counties received maximum sentences of five years or less, with 24 percent receiving maximum sentences of one year or less and eight percent receiving maximum sentences of over five years. On the other hand, only four percent of the youth from urban counties received maximum sentences of one year or less while 30 percent received maximum sentences of over five years.

TABLE 37-13. OKLAHOMA: PERCENT JUDICIAL WAIVERS TO ADULT COURTS (BY COUNTY SIZE AND BY MAXIMUM SENTENCE) IN 1978

County Category	Total Confinements[a]	One Year or Less	One+ to 3 Years	3+ to 5 Years	5+ to 10 Years	Over 10 Years
Counties with juvenile populations over 15,000	24	1	10	6	4	3
Percent	100[b]	4	42	25	17	13
Counties with juvenile populations under 15,000	37	9	14	11	2	1
Percent	100	24	38	30	5	3

a. Over 25 percent of these sentences were partially or totally suspended.

b. Categories not totaling 100 percent due to rounding-off.

Routinely Handled Traffic and Other Offenses

When juveniles violated Oklahoma traffic or conservation ordinances or committed misdemeanor offenses in 1978, the hearings could take place in adult courts due to the concurrent jurisdiction provisions. This section presents information, by county, on the number of juveniles referred to adult courts due to routine traffic, conservation, alcohol or other misdemeanor offenses.

State sources have reported that most offenses or violations subject to concurrent jurisdiction are routinely tried in Oklahoma adult courts. However, sources familiar with the record-keeping procedures reflected in the data tape from which the following data were gathered, reported that in 1978 only felony data were consistently reported and that lesser offenses were voluntarily provided to the state agency in an erratic manner. Therefore, this data reflects a significant undercount.

Youth under 18 reported to have appeared in Oklahoma adult courts due to concurrent jurisdiction for lesser offenses are shown in Table 37-14. Of the 216 youth charged with lesser offenses reported, 114 were charged with traffic offenses, 15 with conservation offenses (hunting or fishing without a license, violation of migratory bird laws, and illegally taking game fish), and 34 for alcohol offenses. Fifth-three misdemeanors, including littering, assault and battery, larceny, disturbing the peace, drug violations, and fraud, were tried in adult courts.

TABLE 37-14. OKLAHOMA: PROSECUTORIAL REFERRALS DUE TO CONCURRENT JURISDICTION (BY COUNTY, JUVENILE POPULATION, AND FREQUENCY OF OFFENSES) IN 1978[a]

County	Juvenile Population (Ages 8-17)[b]	Number of Traffic Violations	Number of Conservation Violators	Number of Alcohol Violators	Number of Minor Misdemeanors
Adair	3,231	0	0	0	0
Alfalfa	970	0	0	0	1
Atoka	1,892	0	0	0	0
Beaver	1,004	0	0	0	1
Beckham	2,288	10	0	2	6
Blaine	1,879	0	0	0	0
Bryan	3,883	10	0	0	3
Caddo	5,820	7	0	1	4
Canadian	7,522	0	0	0	0
Carter	6,859	0	0	0	3
Cherokee	4,377	0	0	0	0
Choctaw	3,139	0	0	0	0
Cimarron	705	0	0	0	0
Cleveland	16,599	6	0	2	0
Coal	994	0	0	0	0
Comanche	19,139	9	0	7	7
Cotton	1,042	11	0	3	2
Craig	2,128	0	0	0	0
Creek	8,942	0	0	0	0
Custer	3,100	10	0	1	0
Delaware	3,438	0	8	2	1
Dewey	907	0	0	0	0
Ellis	855	0	0	0	0
Garfield	9,445	0	0	0	0
Garvin	4,499	3	0	2	0
Grady	5,833	5	0	0	1
Grant	998	0	0	0	0
Greer	1,045	0	0	0	0
Harmon	721	0	0	0	1
Harper	816	0	0	0	0
Haskell	1,648	0	0	0	0
Hughes	2,120	0	0	0	0
Jackson	6,457	0	0	0	0
Jefferson	1,181	1	0	0	1
Johnston	1,262	0	0	1	0

TABLE 37-14. (Continued)

County	Juvenile Population (Ages 8-17)[b]	Number of Traffic Violations	Number of Conservation Violators	Number of Alcohol Violators	Number of Minor Misdemeanors
Kay	7,396	0	0	0	0
Kingfisher	2,381	0	0	0	0
Kiowa	1,808	0	0	0	0
Lattimer	1,563	0	0	0	0
LeFlore	6,156	0	0	0	0
Lincoln	3,721	0	0	0	0
Logan	3,678	0	0	0	0
Love	1,093	0	0	1	1
McClain	3,435	0	0	0	0
McCurtain	7,325	0	0	0	0
McIntosh	2,039	5	1	2	4
Major	1,379	0	0	0	0
Marshall	1,360	1	0	0	0
Mayes	4,496	0	0	2	3
Murray	1,631	1	0	1	0
Muskogee	10,694	1	0	1	1
Noble	1,805	3	0	0	0
Nowata	1,684	3	1	0	2
Okfuskee	2,066	0	0	0	0
Oklahoma	90,251	1	0	0	3
Okmulgee	5,805	0	0	0	0
Osage	5,146	0	2	0	0
Ottawa	4,916	6	1	1	2
Pawnee	1,977	0	0	1	1
Payne	6,776	0	0	0	0
Pittsburg	5,724	11	1	4	2
Pontotoc	4,467	0	0	0	0
Pottawatomie	8,266	0	0	0	0
Pushmataha	1,998	0	0	0	0
Roger Mills	729	2	0	0	0
Rogers	6,417	0	0	0	0
Seminole	4,673	0	0	0	0
Sequoyah	5,379	0	0	0	0
Stephens	6,091	0	0	0	1
Texas	3,151	0	0	0	0

TABLE 37-14. (Continued)

County	Juvenile Population (Ages 8-17)b	Number of Traffic Violations	Number of Conservation Violators	Number of Alcohol Violators	Number of Minor Misdemeanors
Tillman	2,230	0	0	0	0
Tulsa	72,885	0	0	0	0
Wagoner	5,071	0	0	0	0
Washington	6,618	6	0	0	2
Washita	2,021	0	0	0	0
Woods	1,362	2	1	0	0
Woodward	2,793	0	0	0	0
State Total	457,194	114	15	34	53

a. Youth who were 18 years old by the time they were referred to adult courts, having committed an offense before age 18, were not isolated by the Academy from the state-supplied data tape and are not included in this table.

b. 1978 population estimates were developed by the National Center for Juvenile Justice using data from two sources: the 1970 national census and the National Cancer Institute 1975 estimated aggregate census.

RESULTS OF ON-SITE INTERVIEWS

Interviews were conducted with juvenile and criminal justice specialists in Oklahoma in January of 1980. Those interviewed included judges, district attorneys, youth advocates, corrections officials, and public defenders. Their perceptions of the effects of trying youth as adults on the juvenile and criminal justice systems in Oklahoma are summarized in the following sections.

The perceptions of these specialists in Oklahoma are important to a fuller understanding of past and present certification practices within the state. Even when some of these perceptions do not coincide with empirical findings, their existence helps to illuminate some of the problems and conflicts within Oklahoma regarding trying youth as adults.

Perceived Effects on the Court System of Trying Youth As Adults

While several interviewees thought that trying youth as adults resulted in no advantages to the juvenile courts, many stated that the Oklahoma system allowed the juvenile courts to concentrate efforts and resources on fewer juveniles by removing those juveniles who would not be amenable to juvenile treatment. Some also praised the excluded offenses mechanism for expediting certain severe juvenile offenses, thus reducing the case load. As to disadvantages to the juvenile courts, a few respondents said that the courts were losing some of their power and purpose and that the certification process was an admission that the juvenile courts had failed. Several interviewees cited the lack of secure juvenile facilities and programs as limiting the dispositional options available to juvenile courts appropriate to youth who are otherwise being tried as adults.

In regard to the implications for the adult court system, most of those who commented said that juvenile cases were more difficult to prosecute. In the smaller counties, where one judge may hear both juvenile and adult cases, there was little comment on the problems this may cause for the chances for having a fair trial. Some respondents in other parts of the state, however, stated their concern over an abuse of judicial discretion in the smaller counties.

Perceived Effects on the Corrections System of Trying Youth As Adults

Most Oklahoma respondents thought there were advantages in judicial certification to state juvenile corrections. These included removing influential "hardened" youth from contact with juveniles who have greater rehabilitative

potential and also the concentration of efforts and resources on these fewer juveniles with more promise of successful correction. Administrative advantages (no longer having to deal with the "hardened" youth) as well as a reduction of the number of juveniles in institutions were also cited.

Of the few disadvantages to state juvenile corrections cited, the one most frequently mentioned was a decreasing budget. Other respondents stated there were management problems and decreasing justification for juvenile institutions.

In contrast, most interviewees indicated few advantages to state adult corrections. Longer sentences and the protection of society were the only advantages stated. However, perceptions of disadvantages abounded. The major ones mentioned were the greater potential for physical abuse, increasing problems of segregating youth from adults, and overcrowding. Some indicated management problems related to segregating the youth from adults, retraining of staff to deal with youth, and lack of appropriate treatment programs as additional drawbacks.

Perceived Effects on Offenders Being Tried As Adults

Responses of interviewees were fairly evenly divided between the advantages and disadvantages to youth being tried in adult courts. The advantages to the youth included guarantees of legal representation and better protection of due process rights. The possibility of suspended, deferred, or non-institutional sentences were also mentioned as advantages to the young offenders.

Little or no consideration for providing rehabilitative services within the adult system was the most frequently mentioned disadvantage to the certified youth. Harsher sentencing and a permanent criminal record were also frequently mentioned. A few interviewees cited the negative effects of interaction with "hardened" criminals and threats of physical or sexual abuse in adult corrections as disadvantages to the youth.

Perceived Effects on the Public of Trying Youth As Adults

Almost all of those interviewed in Oklahoma said the public felt safer by having some youth tried as adults. Interviewees said that the public's need for retribution is satisfied through longer periods of incarceration. However, the 1978 census data indicated that one-half of youth convicted in adult courts were not incarcerated. Some of the respondents did cite increased costs and the long-term effects of incarceration with hardened criminals as disadvantages to the general public.

Perceptions of Factors to be Considered in the Referral of Youth to Adult Courts

Factors named by Oklahoma respondents to be considered in the decision to certify youth to adult courts were very similar to statutory factors (see Transfer Process subsection). Severity of offense, the youth's past record, and the lack of potential for rehabilitation in the juvenile system were the three most frequently named factors. Psychiatric evaluations and the circumstances surrounding the offense were also mentioned as important factors to be considered.

Perceptions of Needed Changes in the Referral of Youth to Adult Courts

The respondents suggestions of needed changes in the Oklahoma transfer procedures covered the whole spectrum. While some respondents were totally satisfied with the current system, many wanted to eliminate the reverse certification process. A bifurcated system was proposed, whereby the adjudicatory process would be the same for juveniles and adults, and only the dispositional phase would be segregated. There were proposals to limit the excluded crimes to a very few heinous crimes, as well as proposals to expand the list. It was also charged that the current list of excluded crimes and its immediate predecessor were the product of political negotiations which emphasized considerations other than creating the best system for trying youth as adults. Several respondents proposed more extensive, secure juvenile facilities in order to give more dispositional alternatives to the juvenile courts and thus to diminish the number of youth who are tried as adults.

SUMMARY AND CONCLUSIONS

The Oklahoma processes whereby youth may be tried as adults were viewed by our respondents to be generally appropriate to and effective at achieving the goal of longer sentences for youth convicted of serious offenses. In general, interviewees stated that youth certified for more violent crimes received longer, harsher sentencing in adult courts than possible in the juvenile courts, while youth certified for lesser crimes received non-institutional sentences. Criticism over the administrative and resource demands or possible abridgement of due process rights created by trying youth as adults was rather limited.

The greatest controversy was over the newly-created excluded offenses. Some respondents questioned whether the excluded offenses were needed at all, generally arguing that the judicial certification mechanism had not been as

fully utilized as it might have been. Others agreed on the need for excluded offenses, though some thought fewer offenses should be included in the excluded list, others thought the list should be expanded.

Despite the differences over the means, there was clear consensus that youth convicted of serious offenses should be incarcerated for relatively lengthy sentences. Indeed, some of those wishing to do away with the excluded offenses also wished to lengthen the amount of time for which the juvenile courts might sentence the more serious juvenile offenders. It is interesting that, unlike in other case study states, the need for longer sentences (from juvenile court) was not linked to an expressed need for more juvenile justice services. Partially because a portion of state revenues are earmarked for the Department of Institutions, Social and Rehabilitative Services, allowing the department to avoid the normal legislative budget process, Oklahoma has an unusually large number of services available for juveniles in trouble with the law. Further, Oklahoma is a relatively wealthy state--Tulsa County, in 1979, was able to provide an impressive array of juvenile services, while not accepting any state funds and concomitant regulations for such services.

Academy staff also found it interesting that, in responding to our questions, no one mentioned (until fairly recently) the situation regarding 16 and 17 year old males being routinely defined as adults due to the maximum age of juvenile court jurisdiction. The use of an excluded offense mechanism "makes sense" given that history, in that these youth still may be generally viewed as deserving trial as adults. However, it is not clear that this view is widely shared. The trying of youth as adults is still very much a "live" issue in Oklahoma; several members of the state legislature are still looking into it. While it is not yet clear how this controversy will be resolved, it is clear that the goal pursued will be longer terms of incarceration for more serious crimes.

Another unexpected result of the case study interviews was the lack of comment on the use of concurrent jurisdiction for minor violations. Clearly, the goal in trying youth as adults in Oklahoma is longer incapacitation. Most of those tried under the concurrent jurisdiction mechanism were charged with traffic violations. Yet, one-quarter were charged with violations of ordinances including offenses such as assault and battery, larceny, and drug violations. It could not be determined whether these youth can be jailed, especially those youth unable to pay fines. It is clear, nevertheless, that trial in adult courts for these offenses is not a controversial issue in Oklahoma.

FOOTNOTES

1. Oklahoma Laws 1909, Section 102.
2. Lamb v. Brown, 456 F.2d 18 (10th Circuit, 1972); Oklahoma Statutes Annotated, Title 10, Sections 1101 (a)(b) and 1102.
3. Oklahoma Laws 1909, Chapter 14, Section 1, and Comp. Laws 1909, Section 594.
4. Oklahoma Laws 1968, Section 102.
5. Oklahoma Statutes Annotated, Title 10, Section 1102(A).
6. Oklahoma Laws 1968, Chapter 282, Section 112(b).
7. Oklahoma Laws 1968, Section 101(b).
8. Oklahoma Laws 1973, Chapter 227, Section 1.
9. Oklahoma Statutes Annotated, Title 10, Section 1104.2.
10. Oklahoma Laws 1979, Chapter 248, Section 1.
11. Lamb v. State, 475 P.2d 829 (1970). According to the 1977 Report on the Judiciary, State of Oklahoma, the state supreme court handles civil cases, and the court of criminal appeals handles criminal appeals.
12. Lamb v. Brown.
13. Schaffer v. Green, 496 P.2d 375 (1972).
14. Oklahoma Laws 1979, Chapter 257, Section 1.
15. Radcliffe v. Anderson, 509 F.2d 1093 (1974).
16. Edwards v. State, 591 P.2d 313 (1979).
17. Sherfield v. State, 511 P.2d 598 (1973).
18. Kent v. United States, 383 U.S. 541, 16 L.Ed.2d 84 (1966).
19. J.T.P. v. State, 534 P.2d 1270 (1975).
20. B.M.R. v. State, 581 P.2d 1322 (1978).
21. Matter of Sanders, 564 P.2d 273 (1977).
22. Berryhill v. State, 568 P.2d 1306 (1977).
23. Calhoun v. State, 548 P.2d 1037 (1976).
24. Matter of R.M., 561 P.2d 572 (1977).
25. Shelton v. State, 554 P.2d 1378 (1976).
26. Hainta v. State, 561 P.2d 101 (1977).
27. Matter of M.E., 584 P.2d 1340 (1978).
28. L.D.F. v. State, 561 P.2d 114 (1977).
29. S.H. v. State, 581 P.2d 916 (1978).
30. Matter of R.G.M., 575 P.2d 645 (1978).
31. Oklahoma Statutes Annotated, Title 10, Section 1112(b).
32. State ex rel. Coats v. Johnson, 597 P.2d 328 (1979).
33. Oklahoma Statutes Annotated, Title 10, Sections 1101(a) and (b).
34. Lamb v. Brown.
35. Oklahoma Laws 1979, Chapter 257, Section 1.
36. Oklahoma Statutes Annotated, Title 10, Section 1101(b).
37. Oklahoma Statutes Annotated, Title 10, Section 1112(b).
38. Oklahoma Statutes Annotated, Title 10, Section 1112, as amended effective October 1, 1978.

39. Ibid.

40. State ex. rel. Coats v. Johnson, 597 P.2d 328 (1979).

41. Oklahoma Statutes Annotated, Title 10, Section 1101(a) as amended 1979. The specific offenses include: murder, kidnapping for the purpose of extortion, robbery with a dangerous weapon, rape in the second degree, use of a firearm or other offensive weapon while committing a felony, arson in the first degree, burglary with explosives, shooting with intent to kill, manslaughter in the first degree, or nonconsensual sodomy.

TEXAS PROFILE

ACKNOWLEDGMENTS

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METHODOLOGY

Phase I data--the frequency of youth judicially waived from juvenile to adult courts--were sought for all counties. Phase II data--age, sex, race, offenses, dispositions, and sentences of youth judicially waived--were sought from the most populous ten percent of the counties and those counties reporting five or more waivers during 1978.

Most of the data from Texas were gathered through telephone interviews conducted by the League of Women Voters. Initial contacts were made with juvenile courts and their probation staffs. In many instances, a number of follow-up calls were required before data collection for a given county could be considered complete. Personal visits and letters were necessary before some of the courts in the more metropolitan areas were willing to participate in our research and provide the needed data.

Since Texas is one of eight states in the country which imposes criminal responsibility at the age of 17, it was necessary to seek out adult data for this one birth cohort. Arrest data on 17 year olds were provided by the Identification and Criminal Records Division, Uniform Crime Reporting Bureau, Department of Public Safety.

Data from the prescreening center in Harris County (Houston) showed that between 90 and 94 percent of all arrests result in court filings. The personnel at the center suggested that probably a higher percentage of arrests are filed in the rest of the state. County and district courts were contacted throughout the state in what turned out to be a fruitless effort to obtain data on court

referrals of 17 year olds. Courts could not distinguish this age group from other criminal defendants.

Texas also tries 14 to 17 year old traffic offenders as adults. This data set was available, for the most part, from municipal and justice of the peace courts. No attempt was made to collect data on juveniles under 17 charged with minor alcohol violations, excluded from juvenile court.

COURT ORGANIZATION

The highest courts of general jurisdiction in Texas are the district courts. The district court system is comprised of 309 courts in the state's 254 counties.

Trial-level jurisdiction may also reside in the 254 county courts or in 116 county courts-at-law. In counties where there are criminal district courts, county courts do not hear criminal cases.

Most traffic cases are heard in the 967 justice of the peace courts and 686 municipal courts. A very high percentage of the workloads of both types of courts consists of traffic.

Approximately 93 percent of the juvenile cases in Texas are handled by district courts, and the remaining seven percent are handled by county-level courts (county courts-at-law or county courts). Juvenile courts are not separately designated courts in the Texas system. However, in the remainder of this profile, the courts having juvenile jurisdiction will be referred to as juvenile courts. These juvenile courts, however designated and wherever situated, have exclusive jurisdiction over all juvenile matters except traffic and public drunkenness. Two traffic offenses are exceptions to the exception, however. Driving while intoxicated and driving while under the influence of drugs are offenses which are handled in juvenile courts.

An overview of the Texas court structure is reflected below, according to jurisdiction:

TEXAS: COURT JURISDICTION OVER JUVENILES IN 1978

General Juvenile Jurisdiction	Jurisdiction over Transferred Juveniles	Juvenile Traffic[a]
District Courts Criminal District Courts County Courts County Courts-at-Law	District Courts	Justice of the Peace Courts Municipal Courts

a. Juvenile traffic offenders, under the age of 17, charged with driving while intoxicated or driving while under the influence of drugs, are tried in juvenile courts.

TRANSFER PROCESS

The initial age of juvenile court jurisdiction in Texas extends to 17 years of age. In Texas, there are three legal mechanisms used to try individuals under the age of 18 in adult courts, namely, judicial waiver, excluded offenses, and lower age of criminal jurisdiction.

JUDICIAL WAIVER

Juveniles 15 or 16 years of age and charged with felonies are eligible for adult court prosecution. Full investigations and hearings in juvenile courts are required prior to waiving youth to adult courts. Before the waiver hearing, the juvenile courts must order a complete diagnostic study which includes a social evaluation and full investigation concerning the individual's background and the alleged offense.

The juvenile court, in making the decision to waive, must consider:

- Whether the alleged offense was against person or property, with greater weight in favor of transfer given to offenses against the person;
- Whether the alleged offense was committed in an aggressive and premeditated manner;

- Whether there is evidence on which a grand jury may be expected to return an indictment;
- The sophistication and maturity of the child;
- The record and previous history of the child; and
- The prospects of adequate protection of the public and the likelihood of the rehabilitation of the child by use of procedures, services, and facilities currently available to the juvenile court.[2]

The petitions for transfer hearings may be made by prosecuting attorneys following preliminary investigations by the juvenile courts--the intake officers, probation officers, or other persons authorized by the courts. Examining trials must be conducted by the adult courts to which juvenile cases are waived. Adult courts may remand such cases back to the jurisdiction of the juvenile courts.[3]

Excluded Offenses

Youth who are 14, 15, or 16 years of age, and who are charged with excluded, routine traffic and minor alcoholic violations are tried as adults.[4] However, if the juveniles are charged with driving while intoxicated, due to alcohol or drugs (DWI), they are referred by police to the juvenile courts.

Lower Age of Criminal Jurisdiction

Youth 17 years old are routinely handled as adults in Texas. These persons are subject to the same court procedures and dispositional alternatives as persons 18 years old or older, and are discussed in a separate section of the data summary which appears later in this profile.

CASE LAW SUMMARY

Since 1950, several important cases have been heard in Texas in the Court of Criminal Appeals regarding waiver-related issues. Prior to code revision in 1973, an individual's age at time of trial and not when the offense was committed was determinative.[5] Individuals under 17 years of age had no absolute right to be treated as juveniles. Therefore, it was not an error for the

district attorney to delay commencement of proceedings until after an individual's 17th birthday. This procedure, sometimes used intentionally by prosecutors, to wait for a few months and file on suspects after their seventeenth birthdays, became known nationally as the "Texas-style waiver."

In Peterson v. State, Elliott v. State, Perry v. State, Hultin v. State, Foster v. State, and Salazar v. State, the Texas Court of Criminal Appeals repeatedly upheld such delays where there had been no showing of unreasonableness.[6] In Whittaker v. Estelle, the United States Fifth Circuit Court held that, under Texas law, the juvenile court automatically loses jurisdiction over an offense when the defendant reaches his majority. The court also held that a criminal trial without waiver was permissible in the case of a juvenile who had committed a crime before attaining 17 years of age, but was indicted after reaching that age. However, proceedings on this case began prior to the code revision.[7]

In 1973, the Court of Criminal Appeals declared statutes unconstitituional which provided for different ages of juvenile court jurisdiction based upon the sex of the offender. The court, in Ex parte Matthews, held that these statutes violated the equal protection clause of the U.S. Constitution.[8]

The Court of Criminal Appeals rejected contentions that 16 year olds could not properly be tried as adults where lawful certification procedures had taken place. See Jackson v. State and Buchanan v. State.[9] Further, in Garza v. State, the court held that the statutory definition of "child", for purposes of waiver, includes an individual who was previously adjudged to be a "delinquent child".[10]

The state's failure to notify the juvenile's mother prior to a waiver hearing was held, in Forder v. State, not to void the subsequent criminal conviction where numerous attempts had been made to contact her.[11] However, in Johnson v. State, the court held that juvenile court could not waive its jurisdiction unless a summons had been served on the child, advising him of the nature and possible consequences of the hearing. See also Matter of W.L.C., Matter of D.W.M., and Grayless v. State.[12]

In Tatum v. State, the Court of Criminal Appeals held that a waiver order was not fatally defective because it did not contain a listing of the specific crimes for which the juvenile might be criminally tried.[13] In Ellis v. State, the court held that the transfer order should be promptly filed with the clerk of court to which the case had been transferred.[14] The court held, in Hight v. State, that an individual's appeal from a waiver order was not rendered moot by virtue of his attaining the age of 17 years while the appeal was pending.[15] Finally, the court held, in Moreno v. State, that district court was not deprived of jurisdiction to conduct a criminal trial during the pendency of an appeal from a waiver order.[16]

CORRECTIONS INFORMATION

In Texas, the Department of Corrections operates adult institutions. All individuals prosecuted in adult courts who are convicted of felonies may be committed to the Department of Corrections.

The Texas Youth Council operates juvenile institutions. Juvenile delinquents may be committed by juvenile courts to Texas Youth Council facilities for indeterminate periods not to exceed their eighteenth birthdays.

Youth who are tried and convicted as adults subsequent to having been waived from juvenile court jurisdiction may be committed to the Department of Corrections like any other convicted adult.[17] These youth, when sentenced to the Department of Corrections, are generally placed in a first offender facility called the Ferguson Unit.

Finally, juvenile delinquents may not be administratively transferred by the Texas Youth Council to the Department of Corrections.[18] Likewise, transfers from adult to juvenile facilities are not permitted.

STATE DATA SUMMARY

In Texas, there are two legal mechanisms used to try youth in adult courts, in addition to the 17 year old, age-of-jurisdiction cases: there are judicial waiver and excluded offenses. The data displayed in the following tables are divided along these lines.

Table 44-1 reflects the frequency (Phase I) data for judicial waivers and arrest data on 17 year olds, displayed by county and 1978 estimated juvenile populations. Data on youth tried in adult courts for excluded, routine traffic offenses appear in a separate table at the end of this profile. No attempt was made to collect data on minor alcohol violations against persons under 17 years of age, routinely handled in adult courts in Texas.

As can be seen in Table 44-1, there were 211 youth judicially waived to adult courts, for a rate of .943 per 10,000 juveniles in Texas. Given the size of the state, the incidence is small, at least in part due to the absence of 17 year olds in juvenile courts. There does not appear to be any clear trend between county population and incidence of judicial waiver.

Table 44-1 also reflects that 30,864 youth who were 17 years old were arrested in 1978 for criminal violations and subject to prosecution in adult courts.

TABLE 44-1. TEXAS: REFERRALS OF JUVENILES TO ADULT COURTS IN 1978 (BY COUNTY, RATE, AND LEGAL MECHANISM)

County	Juvenile Population (Ages 8-17)[a]	Judicial Waiver		Age of Jurisdiction	
		Cases	Rate[b]	Cases[c]	Rate[b]
Anderson	4,916	0	0.000	44	89.504
Andrews	2,083	0 est	0.000	20	96.015
Angelina	10,018	1	0.998	118	117.788
Aransas	1,814	0	0.000	29	159.868
Archer	1,130	0	0.000	64	566.372
Armstrong	255	0 est	0.000	8	313.725
Atascosa	3,925	5	12.739	34	86.624
Austin	2,331	0	0.000	16	68.640
Bailey	1,556	1	6.427	17	109.254
Bandera	897	0	0.000	25	278.707
Bastrop	3,493	0	0.000	42	120.240
Baylor	698	0 est	0.000	9	128.940
Bee	4,417	1	2.264	101	228.662
Bell	24,147	1	0.414	233	96.492
Bexar	179,034	3	0.168	1,718	95.959
Blanco	557	0	0.000	2	35.907
Borden	123	0	0.000	0	0.000
Bosque	1,523	0 est	0.000	9	59.094
Bowie	12,169	0	0.000	38	31.227
Brazoria	23,893	3	1.256	403	168.669
Brazos	10,815	0	0.000	106	98.012
Brewster	1,346	0 est	0.000	19	141.159
Briscoe	372	0	0.000	4	107.527
Brooks	1,672	0	0.000	12	71.770
Brown	4,754	0	0.000	98	206.142
Burleson	1,780	0	0.000	24	134.831
Burnet	2,173	0	0.000	29	133.456
Caldwell	3,608	1	2.772	40	110.865
Calhoun	3,868	0	0.000	69	178.387
Callahan	1,463	0	0.000	14	95.694
Cameron	37,901	1	0.264	562	148.281
Camp	1,372	1	7.289	2	14.577
Carson	1,198	0	0.000	13	108.514
Cass	4,632	2 est	4.318	42	90.674
Castro	2,411	2	8.295	19	78.805

TABLE 44-1. (Continued)

County	Juvenile Population (Ages 8-17)[a]	Judicial Waiver		Age of Jurisdiction	
		Cases	Rate[b]	Cases[c]	Rate[b]
Chambers	2,458	0	0.000	69	280.716
Cherokee	4,897	0	0.000	43	87.809
Childress	898	0	0.000	12	133.630
Clay	1,342	0	0.000	5	37.258
Cochran	1,048	0	0.000	20	190.840
Coke	594	0	0.000	4	67.340
Coleman	1,488	0	0.000	13	87.366
Collin	18,609	2	1.075	456	245.043
Collingsworth	607	0	0.000	3	49.423
Colorado	2,834	0	0.000	*	*
Comal	4,705	1 est	2.125	73	155.154
Comanche	1,700	3 est	17.647	13	76.471
Concho	431	1	23.202	1	23.202
Cooke	4,270	0	0.000	96	224.824
Coryell	5,884	10 est	16.995	106	180.150
Cottle	495	0	0.000	0	0.000
Crane	762	0	0.000	*	*
Crockett	818	0 est	0.000	2	24.450
Crosby	1,775	0	0.000	10	56.338
Culberson	836	0	0.000	1	11.962
Dallam	1,296	0	0.000	22	169.753
Dallas	260,010	17	0.654	5,473	210.492
Dawson	3,225	0	0.000	39	120.930
Deaf Smith	4,168	0 est	0.000	14	33.589
Delta	650	0	0.000	0	0.000
Denton	15,752	0	0.000	358	227.272
De Witt	2,890	0	0.000	27	93.426
Dickens	587	0	0.000	4	68.143
Dimmit	2,354	0	0.000	45	191.164
Donley	423	1	23.641	0	0.000
Duval	2,393	1	4.179	49	204.764
Eastland	2,191	24 est	109.539	26	118.667
Ector	18,379	2	1.088	340	184.994
Edwards	394	0	0.000	2	50.761
Ellis	9,265	0	0.000	149	160.820

TABLE 44-1. (Continued)

County	Juvenile Population (Ages 8-17)[a]	Judicial Waiver		Age of Jurisdiction	
		Cases	Rate[b]	Cases[c]	Rate[b]
El Paso	87,747	2	0.228	1,281	145.988
Erath	2,267	0	0.000	16	70.578
Falls	2,586	0	0.000	14	54.138
Fannin	3,453	0	0.000	36	104.257
Fayette	2,132	0	0.000	4	18.762
Fisher	920	0	0.000	8	86.957
Floyd	2,202	0	0.000	18	81.744
Foard	322	0	0.000	5	155.279
Fort Bend	15,737	2	1.271	152	96.588
Franklin	893	0	0.000	17	190.370
Freestone	1,781	0	0.000	37	207.748
Frio	2,809	2	7.120	20	71.200
Gaines	2,469	1	4.050	19	76.954
Galveston	34,367	1	0.291	709	206.303
Garza	905	0	0.000	8	88.398
Gillespie	1,741	0	0.000	11	63.182
Glasscock	271	0	0.000	0	0.000
Goliad	819	0	0.000	6	73.260
Gonzales	2,757	0	0.000	9	32.644
Gray	4,139	0	0.000	39	94.226
Grayson	12,997	0	0.000	389	299.300
Gregg	14,134	1 est	0.708	168	118.862
Grimes	2,002	1	4.995	21	104.895
Guadalupe	7,006	0	0.000	144	205.538
Hale	7,033	4	5.687	43	61.140
Hall	1,067	0	0.000	13	121.837
Hamilton	783	0	0.000	8	102.171
Hansford	1,219	0 est	0.000	14	114.848
Hardeman	898	6 est	66.815	16	178.174
Hardin	6,512	0 est	0.000	38	58.354
Harris	365,587	14	0.383	5,578	152.577
Harrison	7,747	0 est	0.000	32	41.306
Hartley	498	0	0.000	3	60.241
Haskell	1,230	0	0.000	1	8.130
Hays	5,091	0 est	0.000	70	137.498

TABLE 44-1. (Continued)

County	Juvenile Population (Ages 8-17)[a]	Judicial Waiver		Age of Jurisdiction	
		Cases	Rate[b]	Cases[c]	Rate[b]
Hemphill	653	0	0.000	0	0.000
Henderson	5,002	0 est	0.000	52	103.958
Hidalgo	50,047	1	0.200	320	63.940
Hill	3,181	0 est	0.000	38	119.459
Hockley	3,903	0	0.000	23	58.929
Hood	1,746	0	0.000	22	126.002
Hopkins	3,358	0	0.000	56[d]	166.766
Houston	2,643	0	0.000	0	0.000
Howard	6,450	1	1.550	56	86.822
Hudspeth	602	2	33.223	7	116.279
Hunt	7,694	0	0.000	110	142.969
Hutchinson	3,897	0	0.000	66	169.361
Irion	176	0	0.000	0	0.000
Jack	925	0	0.000	6	64.865
Jackson	2,220	0	0.000	20	90.090
Jasper	5,048	0	0.000	105	208.003
Jeff Davis	267	0 est	0.000	2	74.906
Jefferson	42,360	6	1.416	469	110.718
Jim Hogg	968	0	0.000	1	10.331
Jim Wells	6,915	0	0.000	10	14.461
Johnson	9,906	0	0.000	182	183.727
Jones	2,500	0	0.000	62	248.000
Karnes	2,446	1	4.088	48	196.239
Kaufman	5,587	0	0.000	68	121.711
Kendall	1,448	0	0.000	7	48.343
Kenedy	124	0	0.000	0	0.000
Kent	225	0	0.000	0	0.000
Kerr	2,834	0	0.000	79	278.758
Kimble	734	0	0.000	5	68.120
King	76	0 est	0.000	0	0.000
Kinney	457	0	0.000	0	0.000
Kleberg	5,538	0	0.000	49	88.480
Knox	897	0 est	0.000	0	0.000
Lamar	6,583	0	0.000	87	132.159
Lamb	3,333	0	0.000	78	234.023

TABLE 44-1. (Continued)

County	Juvenile Population (Ages 8-17)[a]	Judicial Waiver Cases	Judicial Waiver Rate[b]	Age of Jurisdiction Cases[c]	Age of Jurisdiction Rate[b]
Lampasas	1,796	0	0.000	36	200.445
LaSalle	1,241	1	8.058	0	000.000
Lavaca	2,554	0	0.000	14	54.816
Lee	1,469	1	6.807	15	102.110
Leon	1,239	1	8.071	15	121.065
Liberty	7,065	0	0.000	21	29.724
Limestone	2,647	0	0.000	10	37.779
Lipscomb	586	0	0.000	0	0.000
Live Oak	1,114	0	0.000	18	161.580
Llano	1,019	0	0.000	6	58.881
Loving	11	0 est	0.000	0	0.000
Lubbock	35,119	4	1.139	425	121.017
Lynn	1,875	0	0.000	2	10.667
McCulloch	1,276	0	0.000	9	70.533
McLennan	23,872	3	1.257	275	115.198
McMullen	168	0	0.000	0	0.000
Madison	1,102	0	0.000	4	36.298
Marion	1,238	0	0.000	26	210.016
Martin	1,057	0	0.000	7	66.225
Mason	539	1	18.553	7	129.870
Matagorda	5,336	0	0.000	60	112.444
Maverick	5,225	0	0.000	111	212.440
Medina	4,394	1	2.276	15	34.137
Menard	449	0	0.000	1	22.272
Midland	13,288	1	0.753	70	52.679
Milam	3,528	0	0.000	21	59.524
Mills	481	0	0.000	0	0.000
Mitchell	1,500	0	0.000	16	106.667
Montague	2,382	0	0.000	30	125.945
Montgomery	16,952	0	0.000	48	28.315
Moore	2,791	3	10.749	8	28.664
Morris	2,246	0	0.000	36	160.285
Motley	213	0	0.000	2	93.897
Nacogdoches	5,781	1	1.730	89	153.953
Navarro	5,000	0	0.000	28	56.000

TABLE 44-1. (Continued)

County	Juvenile Population (Ages 8-17)[a]	Judicial Waiver		Age of Jurisdiction	
		Cases	Rate[b]	Cases[c]	Rate[b]
Newton	2,389	0	0.000	31	129.761
Nolan	2,734	0	0.000	14	51.207
Nueces	48,421	2	0.413	786	162.326
Ochiltree	1,635	0 est	0.000	35	214.067
Oldham	619	0	0.000	1	16.155
Orange	14,919	0	0.000	168	112.608
Palo Pinto	3,635	0	0.000	56	154.058
Panola	2,676	0	0.000	6	22.422
Parker	5,739	0	0.000	95	165.534
Parmer	2,217	0	0.000	6	27.064
Pecos	2,808	3 est	10.684	6	21.368
Polk	3,271	0	0.000	0	0.000
Potter	15,651	1 est	0.639	403	257.491
Presidio	921	0 est	0.000	6	65.147
Rains	626	0	0.000	0	0.000
Randall	11,776	0	0.000	13	11.039
Reagan	668	1 est	14.970	2	29.940
Real	388	0 est	0.000	1	25.773
Red River	2,290	0	0.000	8	34.934
Reeves	3,622	0 est	0.000	46	127.002
Refugio	1,751	0 est	0.000	10	57.110
Roberts	205	0	0.000	1	48.780
Robertson	2,484	0	0.000	20	80.515
Rockwall	1,739	0	0.000	42	241.518
Runnels	1,848	0	0.000	18	97.405
Rusk	5,879	0	0.000	69	117.367
Sabine	1,347	0	0.000	0	0.000
San Augustine	1,438	0	0.000	54	375.521
San Jacinto	1,494	0	0.000	34	227.577
San Patricio	10,885	0	0.000	158	145.154
San Saba	842	0	0.000	6	71.259
Schleicher	459	0	0.000	0	0.000
Scurry	3,010	2	6.645	37	122.924
Schackelford	412	0	0.000	10	242.718
Shelby	3,454	0	0.000	40	115.808

TABLE 44-1. (Continued)

County	Juvenile Population (Ages 8-17)[a]	Judicial Waiver		Age of Jurisdiction	
		Cases	Rate[b]	Cases[c]	Rate[b]
Sherman	670	0	0.000	4	59.701
Smith	18,419	2	1.086	60	32.575
Somervell	505	0	0.000	3	59.406
Starr	5,107	0 est	0.000	0	0.000
Stephens	1,258	0	0.000	20	158.982
Sterling	169	0	0.000	*	*
Stonewall	272	1	36.765	5	183.824
Sutton	810	0 est	0.000	6	74.074
Swisher	2,058	2	9.718	17	82.604
Tarrant	130,563	39 est	2.987	2,033	155.710
Taylor	18,224	0	0.000	151	82.858
Terrell	339	0	0.000	0	0.000
Terry	2,833	0	0.000	20	70.597
Throckmorton	277	0	0.000	0	0.000
Titus	3,115	0	0.000	1	3.210
Tom Green	13,079	0	0.000	207	158.269
Travis	59,455	4	0.673	937	157.598
Trinity	1,225	0	0.000	20	163.265
Tyler	2,236	0 est	0.000	8	35.778
Upshur	3,837	0	0.000	36	93.823
Upton	809	0 est	0.000	8	98.888
Uvalde	4,249	0	0.000	30	70.605
Val Verde	6,814	4	5.870	63	92.457
Van Zandt	4,435	0	0.000	38	85.682
Victoria	11,454	1	0.873	147	128.339
Walker	3,530	0	0.000	1	2.833
Waller	2,479	0	0.000	10	40.339
Ward	2,398	0	0.000	11	45.872
Washington	3,167	1	3.158	43	135.775
Webb	19,036	0	0.000	34	17.861
Wharton	6,824	0	0.000	103	150.938
Wheeler	863	0	0.000	4	46.350
Wichita	20,395	0	0.000	444	217.700
Wilbarger	2,272	0	0.000	33	145.246
Willacy	3,800	0	0.000	26	68.421

TABLE 44-1. (Continued)

County	Juvenile Population (Ages 8-17)[a]	Judicial Waiver Cases	Judicial Waiver Rate[b]	Age of Jurisdiction Cases[c]	Age of Jurisdiction Rate[b]
Williamson	8,937	0	0.000	137	153.295
Wilson	2,751	2	7.270	18	65.431
Winkler	1,623	0	0.000	33	203.327
Wise	3,583	0	0.000	10	27.910
Wood	3,090	0	0.000	35	113.269
Yoakum	1,447	0	0.000	13	89.841
Young	2,256	0	0.000	25	110.816
Zapata	914	0	0.000	29	317.287
Zavala	2,394	0	0.000	1	4.177
Total	2,238,412	211 est	0.943	30,864	137.883

a. 1978 population estimates were developed by the National Center for Juvenile Justice using data from two sources: the 1970 national census and the National Cancer Institute 1975 estimated aggregate census.

b. Rate per 10,000 juveniles age eight to 17 years old (1978).

c. Arrest data provided by the Identification and Criminal Records Division, Crime Reporting Bureau, Texas Department of Public Safety. State sources estimated that the number of court filings approximates the number of arrests by about 94 percent.

d. Subsequent data from county officials indicates that 171 17 year olds were tried as adults due to the age of jurisdiction. The county officials explain the difference from the number reported to the state (UCR) results from not all offense categories being reported, lesser offenses in particular.

Judicial Waiver

In addition to the Phase I frequency data on judicial waivers, Phase II data were also collected. Phase II data consist of age, sex, race, offense, judgment and sentencing data. According to the research design, this information was sought from the ten percent most populous counties and from those counties reporting five or more judicial waivers in 1978. Because of overlaps between these two categories, a total of 29 counties became eligible for Phase II

inclusion. These counties represent 71 percent of the state's juvenile population and 73 percent of the reported waivers. Five counties, included because of population criteria, reported no judicial waivers during the year.

TABLE 44-2. TEXAS: RELATIONSHIP OF PHASE II COUNTIES TO ALL COUNTIES, BASED UPON 1978 POPULATION ESTIMATES AND DATA

	Juvenile Population (Ages 8-17)[a]	Number of Counties Judicial Waiver	Number of Referrals Judicial Waiver
State	2,238,412	254	211
Selected for Phase II Investigation	1,590,912	29	154
Percentage of State Selected for Phase II Investigation	71%	11%	73%

a. 1978 population estimates were developed by the National Center for Juvenile Justice using data from two sources: the 1970 national census and the National Cancer Institute 1975 estimated aggregate census.

Table 44-3 displays age, sex, and race breakdowns for juveniles waived to criminal courts in Phase II counties. Utilizing known data, about three-fourths of the cases (81) involved 16 year olds. Four cases involved juveniles whose seventeenth birthdays occurred before the waiver procedures had been completed.

Of known cases, practically all of the youth were male and 57 percent were minorities.

TABLE 44-3. TEXAS: JUDICIAL WAIVERS TO ADULT COURTS IN PHASE II COUNTIES (BY COUNTY AND BY AGE, SEX, AND RACE) IN 1978

County	Total Waivers	Age				Sex			Race		
		0-15	16	17[a]	Unknown	Male	Female	Unknown	White	Minority	Unknown
Atascosa	5	0	5	0	0	5	0	0	2	3	0
Bell	1	0	1	0	0	1	0	0	1	0	0
Bexar	3	0	2	1	0	3	0	0	1	2	0
Brazoria	3	1	2	0	0	3	0	0	1	2	0
Cameron	1	*	*	*	1	*	*	1	*	*	1
Collin	2	0	2	0	0	2	0	0	2	0	0
Coryell	10	*	*	*	10	10 est	0	0	10	0	0
Dallas	17	0	17	0	0	15	2	0	8	9	0
Denton	0	0	0	0	0	0	0	0	0	0	0
Eastland	24	*	*	*	24	*	*	24	*	*	24
Ector	2	0	2	0	0	2	0	0	2	0	0
El Paso	2	1	1	0	0	2	0	0	0	2	0
Galveston	1	0	1	0	0	1	0	0	1	0	0
Gregg	1	0	0	1	0	1	0	0	1	0	0
Hardeman	6	*	*	*	6	*	*	6	*	*	6
Harris	14	0	12 est	2 est	0	10 est	*	4	2	12	0
Hidalgo	1	1	0	0	0	1	0	0	1	0	0
Jefferson	6	0	6	0	0	6	0	0	2	4	0
Lubbock	4	*	*	*	4	4	0	0	2	2	0
McLennan	3	0	3 est	0	0	3 est	0	0	1 est	2 est	0

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TABLE 44-3. (Continued)

County	Total Waivers	Age				Sex			Race		
		0-15	16	17[a]	Unknown	Male	Female	Unknown	White	Minority	Unknown
Montgomery	0	0	0	0	0	0	0	0	0	0	0
Nueces	2	2	0	0	0	2	0	0	1	1	0
Potter	1	0	1 est	0	0	1 est	0	0	0	1 est	0
Smith	2	1	1	0	0	2	0	0	0	2	0
Tarrant	39	18 est	21 est	0	0	39 est	0	0	1	7	31
Taylor	0	0	0	0	0	0	0	0	0	0	0
Travis	4	0	4	0	0	4	0	0	1	3	0
Webb	0	0	0	0	0	0	0	0	0	0	0
Wichita	0	0	0	0	0	0	0	0	0	0	0
State Phase II Total	154	24	81	4	45	117	2	35	40	52	62

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* denotes Not Available.

a. Age at time of waiver.

Table 44-4 displays, by county, the offenses upon which the judicial waivers were based. Of known offenses, personal offenses (murder, manslaughter, rape, robbery, assaults, kidnapping, and arson) represented the largest offense category with 83 percent (81). Property offenses, which includes burglary and "other property" (auto theft, larceny, and trespassing) represented 16 percent (16). Only one percent (1) of the charges were public order offenses (controlled substance violation). Figure 44-1 graphically depicts these offense categories by percentage, including unknown offenses.

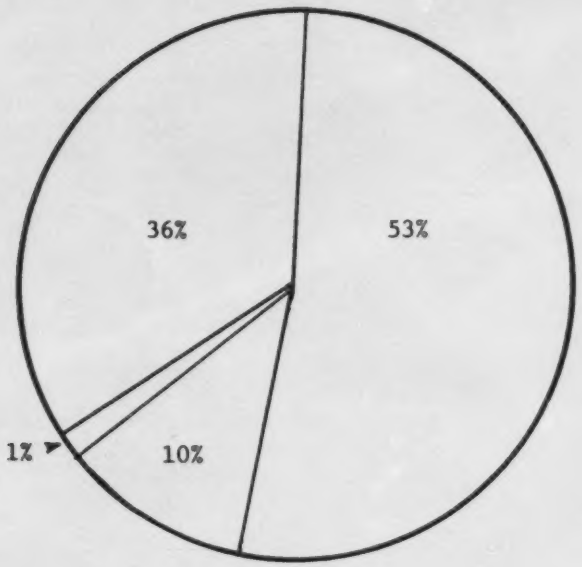
TABLE 44-4. TEXAS: JUDICIAL WAIVERS TO ADULT COURTS IN PHASE II COUNTIES (BY COUNTY AND BY TYPES OF OFFENSES) IN 1978

County	Total Waivers	Offenses[a]										
		Murder/ Man-slaughter	Rape	Rob-bery	As-sault/ Bat-tery	Aggra-vated As-sault	Other Personal	Bur-glary	Other Prop-erty	Public Order	Other General	Unknown
Atascosa	5	0	0	0	0	1	0	3	1	0	0	0
Bell	1	0	0	0	0	0	0	1	0	0	0	0
Bexar	3	0	2	0	0	0	0	1	0	0	0	0
Brazoria	3	1	0	2	0	0	0	0	0	0	0	0
Cameron	1	*	*	*	*	*	*	*	*	*	*	1
Collin	2	2	0	0	0	0	0	0	0	0	0	0
Coryell	10	0	0	0	4 est	0	0	3 est	3 est	0	0	0
Dallas	17	6 est	2 est	8 est	0	0	1	0	0	0	0	0
Eastland	24	*	*	*	*	*	*	*	*	*	*	24
Ector	2	0	0	1	0	0	0	0	0	1	0	0
El Paso	2	1	0	0	0	0	0	1	0	0	0	0
Galveston	1	1	0	0	0	0	0	0	0	0	0	0
Gregg	1	1	0	0	0	0	0	0	0	0	0	0
Hardeman	6	*	*	*	*	*	*	*	*	*	*	6
Harris	14	5	3	5	0	0	1	0	0	0	0	0
Hidalgo	1	1	0	0	0	0	0	0	0	0	0	0
Jefferson	6	1	1	4	0	0	0	0	0	0	0	0
Lubbock	4	2	0	2	0	0	0	0	0	0	0	0
McLennan	3	0	2 est	1 est	0	0	0	0	0	0	0	0
Nueces	2	1	0	0	0	1	0	0	0	0	0	0
Potter	1	0	0	1 est	0	0	0	0	0	0	0	0
Smith	2	0	1	1	0	0	0	0	0	0	0	0
Tarrant	39	3	2	2	*	1	3	1	2	*	*	25
Travis	4	3	0	1	0	0	0	0	0	0	0	0
State Phase II Total	154	28	13	28	4	3	5	10	6	1	0	56

* denotes Not Available.

a. Only most serious offense per individual listed.

FIGURE 44-1. TEXAS: PERCENTAGE OF JUDICIAL WAIVERS TO ADULT COURTS IN PHASE II COUNTIES (BY OFFENSE CATEGORY) IN 1978



Offenses[a]	
Personal	53%
Property	10%
Public Order	1%
Other General	0%
Unknown	36%

N= 154

a. Violent offenses (murder/manslaughter, rape, robbery, and aggravated assault) represent 47 percent of all offenses in the Phase II counties.

Judgment data are reflected on Table 44-5, to the extent available. As can be seen, six counties could not report at all and one county could only report on eight out of 39 cases. The five cases in the column marked "other" were pending at the close of the reporting period. Of the known cases, approximately 95 percent were found guilty. Only two instances, both in Travis County (Austin), were reported of "reverse waiver," i.e., referral back to juvenile court.

TABLE 44-5. TEXAS: JUDICIAL WAIVERS TO ADULT COURTS IN PHASE II COUNTIES (BY COUNTY AND BY JUDGMENTS IN ADULT COURTS) IN 1978

County	Total Waivers	Judgments					
		Not Guilty	Dismissed	Referred to Juvenile Court	Guilty	Other[a]	Unknown
Atascosa	5	0	0	0	5	0	0
Bell	1	0	0	0	1	0	0
Bexar	3	0	0	0	3	0	0
Brazoria	3	0	0	0	3	0	0
Cameron	1	*	*	*	*	*	1
Collin	2	0	0	0	2	0	0
Coryell	10	*	*	*	*	*	10
Dallas	17	0	0	0	15	2	0
Eastland	24	*	*	*	*	*	24
Ector	2	0	0	0	2	0	0
El Paso	2	0	0	0	2	0	0
Galveston	1	0	0	0	1	0	0
Gregg	1	0	0	0	1	0	0
Hardeman	6	*	*	*	*	*	6
Harris	14	*	*	*	*	*	14
Hidalgo	1	0	0	0	1	0	0
Jefferson	6	*	*	*	*	*	6
Lubbock	4	0	0	0	4	0	0
McLennan	3	0	0	0	3	0	0
Nueces	2	0	0	0	2	0	0
Potter	1	*	*	*	*	*	1
Smith	2	0	1	0	0	1	0
Tarrant	39	*	*	*	6	2	31
Travis	4	0	0	2	2	0	0
State Phase II Total	154	0	1	2	53	5	93

* denotes Not Available.

a. Primarily cases held open or pending.

Sentences received by convicted youth are reflected in Table 44-6. Eighty percent of known cases (40) were sent to state adult corrections facilities and 14 percent (7) were given probation. The "other" category included two cases on appeal (Collin County) and one sentence of shock probation (Nueces County). No sentences of fines or jail sentences were reported but they might have occurred in the "unknown" cases.

TABLE 44-6. TEXAS: SENTENCE REPORTED FOR CONVICTIONS ARISING FROM JUDICIAL WAIVERS TO ADULT COURTS IN REPORTING PHASE II COUNTIES (BY COUNTY AND SENTENCE TYPE) IN 1978

County	Total Convictions	Sentence Types					
		Fined	Probation	Jail	State Adult Corrections	Other	Unknown
Atascosa	5	0	5	0	0	0	0
Bell	1	*	*	*	*	*	1
Bexar	3	0	0	0	3	0	0
Barzoria	3	0	0	0	3	0	0
Collin	2	0	0	0	0	2	0
Dallas	15	0	0	0	15	0	0
Ector	2	0	0	0	2	0	0
El Paso	2	*	*	*	*	*	2
Galveston	1	0	0	0	1	0	0
Gregg	1	0	0	0	1	0	0
Hidalgo	1	0	0	0	1	0	0
Lubbock	4	0	1	0	3	0	0
McLennan	3	0	1	0	2	0	0
Nueces	2	0	0	0	1	1	0
Tarrant	6	0	0	0	6	0	0
Travis	2	0	0	0	2	0	0
State Phase II Total	53	0	7	0	40	3	3

* denotes Not Available.

Table 44-7 reflects the lengths of sentences ordered in the cases of the 40 youth sent to state corrections facilities. The information is displayed according to the maximum periods of confinement which are possible under their sentence orders. Of the known cases, no youth received indeterminate sentences or death penalties. Only one youth received one year or less and one youth received a life sentence. Most of the sentences were longer than would have been legally possible in the juvenile court system. Over three-fourths of the known cases received maximum sentences of more than three years.

TABLE 44-7. TEXAS: LENGTH OF CONFINEMENT REPORTED FOR SENTENCES ARISING FROM JUDICIAL WAIVERS TO ADULT COURTS IN REPORTING PHASE II COUNTIES (BY COUNTY AND BY MAXIMUM SENTENCE) IN 1978

County	Total Confinements	Sentence Maximums								
		One Year or Less	One+ to 3 Years	3+ to 5 Years	5+ to 10 Years	Over 10 Years	Indeter-minate	Life	Death	Unknown
Bexar	3	0	0	2	0	1	0	0	0	0
Brazoria	3	1	2	0	0	0	0	0	0	0
Dallas	15	0	0	3	0	11	0	1	0	0
Ector	2	0	1	0	1	0	0	0	0	0
Galveston	1	*	*	*	*	*	*	*	*	1
Gregg	1	0	0	1	0	0	0	0	0	0
Hidalgo	1	0	0	0	0	1	0	0	0	0
Lubbock	3	0	0	0	3	0	0	0	0	0
McLennan	2	*	*	*	*	*	*	*	*	2
Nueces	1	0	0	0	1	0	0	0	0	0
Tarrant	6	0	2	1	0	3	0	0	0	0
Travis	2	0	2	0	0	0	0	0	0	0
State Phase II Total	40	1	7	7	5	16	0	1	0	3

* denotes Not Available.

TX-22

Lower Age of Criminal Jurisdiction

As mentioned earlier, data relating to 17 year old youth were provided from state sources and consists of arrest report information. The data are unverified, since local courts could not discretely report on 17 year old adult defendants.

Table 44-8 reflects the number of male and female 17 year olds arrested in 1978, according to the county in which such arrests occurred. Two counties did not report sex characteristics to the state agency and race data were not available for any county. Eighty-six percent of the known cases were male. The rates of arrest calculated on Table 44-1 do provide the reader with some basis for understanding the relative differences among counties, considering that state sources reported at least 94 percent of these arrests most likely resulted in court filings.

TABLE 44-8. TEXAS: YOUTH ARRESTS AS ADULTS DUE TO AGE OF JURISDICTION (BY COUNTY AND SEX) IN 1978

County	Total Arrests[a]	Sex		
		Male	Female	Unknown
Anderson	44	39	5	0
Andrews	20	18	2	0
Angelina	118	108	10	0
Aransas	29	24	5	0
Archer	64	56	8	0
Armstrong	8	8	0	0
Atascosa	34	33	1	0
Austin	16	16	0	0
Bailey	17	13	4	0
Bandera	25	22	3	0
Bastrop	42	37	5	0
Baylor	9	6	3	0
Bee	101	91	10	0
Bell	233	198	35	0
Bexar	1,718	1,428	290	0
Blanco	2	2	0	0
Borden	0	0	0	0
Bosque	9	9	0	0
Bowie	38	34	4	0
Brazoria	403	358	45	0

TABLE 44-8. (Continued)

County	Total Arrests[a]	Sex		
		Male	Female	Unknown
Brazos	106	88	18	0
Brewster	19	18	1	0
Briscoe	4	3	1	0
Brooks	12	12	0	0
Brown	98	89	9	0
Burleson	24	23	1	0
Burnet	29	26	3	0
Caldwell	40	40	0	0
Calhoun	69	63	6	0
Callahan	14	13	1	0
Cameron	562	484	78	0
Camp	2	1	1	0
Carson	13	13	0	0
Cass	42	40	2	0
Castro	19	17	2	0
Chambers	69	61	8	0
Cherokee	43	40	3	0
Childress	12	11	1	0
Clay	5	4	1	0
Cochran	20	19	1	0
Coke	4	4	0	0
Coleman	13	12	1	0
Collin	456	399	57	0
Collingsworth	3	2	1	0
Colorado	*	*	*	*
Comal	73	67	6	0
Comanche	13	13	0	0
Concho	1	1	0	0
Cooke	96	88	8	0
Coryell	106	99	7	0
Cottle	0	0	0	0
Crane	*	*	*	*
Crockett	2	1	1	0
Crosby	10	9	1	0
Culberson	1	1	0	0

TABLE 44-8. (Continued)

County	Total Arrests[a]	Sex		
		Male	Female	Unknown
Dallam	22	19	3	0
Dallas	5,473	4,702	771	0
Dawson	39	38	1	0
Deaf Smith	14	9	5	0
Delta	0	0	0	0
Denton	358	321	37	0
De Witt	27	24	3	0
Dickens	4	4	0	0
Dimmit	45	43	2	0
Donley	0	0	0	0
Duval	49	46	3	0
Eastland	26	24	2	0
Ector	340	295	45	0
Edwards	2	2	0	0
Ellis	149	138	11	0
El Paso	1,281	1,152	129	0
Erath	16	16	0	0
Falls	14	14	0	0
Fannin	36	33	3	0
Fayette	4	4	0	0
Fisher	8	8	0	0
Floyd	18	18	0	0
Foard	5	5	0	0
Fort Bend	152	141	11	0
Franklin	17	16	1	0
Freestone	37	35	2	0
Frio	20	19	1	0
Gaines	19	19	0	0
Galveston	709	611	98	0
Garza	8	8	0	0
Gillespie	11	9	2	0
Glasscock	0	0	0	0
Goliad	6	6	0	0
Gonzales	9	8	1	0
Gray	39	32	7	0

TABLE 44-8. (Continued)

County	Total Arrests[a]	Sex		
		Male	Female	Unknown
Grayson	389	325	64	0
Gregg	168	145	23	0
Grimes	21	19	2	0
Guadalupe	144	126	18	0
Hale	43	40	3	0
Hall	13	12	1	0
Hamilton	8	8	0	0
Hansford	14	14	0	0
Hardeman	16	16	0	0
Hardin	38	30	8	0
Harris	5,578	4,769	809	0
Harrison	32	31	1	0
Hartley	3	3	0	0
Haskell	1	1	0	0
Hays	70	69	1	0
Hemphill	0	0	0	0
Henderson	52	46	6	0
Hidalgo	320	295	25	0
Hill	38	34	4	0
Hockley	23	20	3	0
Hood	22	22	0	0
Hopkins	56	54	2	0
Houston	0	0	0	0
Howard	56	52	4	0
Hudspeth	7	7	0	0
Hunt	110	97	13	0
Hutchinson	66	54	12	0
Irion	0	0	0	0
Jack	6	6	0	0
Jackson	20	18	2	0
Jasper	105	88	17	0
Jeff Davis	2	2	0	0
Jefferson	469	404	65	0
Jim Hogg	1	1	0	0
Jim Wells	10	7	3	0

TABLE 44-8. (Continued)

County	Total Arrests[a]	Sex		
		Male	Female	Unknown
Johnson	182	161	21	0
Jones	62	55	7	0
Karnes	48	46	2	0
Kaufman	68	51	17	0
Kendall	7	7	0	0
Kenedy	0	0	0	0
Kent	0	0	0	0
Kerr	79	69	10	0
Kimble	5	5	0	0
King	0	0	0	0
Kinney	0	0	0	0
Kleberg	49	39	10	0
Knox	0	0	0	0
Lamar	87	77	10	0
Lamb	78	71	7	0
Lampusas	36	27	9	0
LaSalle	0	0	0	0
Lavaca	14	13	1	0
Lee	15	14	1	0
Leon	15	14	1	0
Liberty	21	18	3	0
Limestone	10	10	0	0
Lipscomb	0	0	0	0
Live Oak	18	18	0	0
Llano	6	5	1	0
Loving	0	0	0	0
Lubbock	425	338	87	0
Lynn	2	2	0	0
McCulloch	9	9	0	0
McLennan	275	228	47	0
McMullen	0	0	0	0
Madison	4	1	3	0
Marion	26	19	7	0
Martin	7	5	2	0
Mason	7	7	0	0

TABLE 44-8. (Continued)

County	Total Arrests[a]	Sex		
		Male	Female	Unknown
Matagorda	60	57	3	0
Maverick	111	87	24	0
Medina	15	11	4	0
Menard	1	1	0	0
Midland	70	59	11	0
Milam	21	17	4	0
Mills	0	0	0	0
Mitchell	16	14	2	0
Montague	30	23	7	0
Montgomery	48	38	10	0
Moore	8	3	5	0
Morris	36	33	3	0
Motley	2	2	0	0
Nacogdoches	89	73	16	0
Navarro	28	27	1	0
Newton	31	28	3	0
Nolan	14	12	2	0
Nueces	786	700	86	0
Ochiltree	35	31	4	0
Oldham	1	1	0	0
Orange	168	149	19	0
Palo Pinto	56	52	4	0
Panola	6	3	3	0
Parker	95	79	16	0
Parmer	6	6	0	0
Pecos	6	5	1	0
Polk	0	0	0	0
Potter	403	331	72	0
Presidio	6	5	1	0
Rains	0	0	0	0
Randall	13	13	0	0
Reagan	2	2	0	0
Real	1	1	0	0
Red River	8	7	1	0
Reeves	46	41	5	0

TABLE 44-8. (Continued)

County	Total Arrests[a]	Sex		
		Male	Female	Unknown
Refugio	10	8	2	0
Roberts	1	1	0	0
Robertson	20	20	0	0
Rockwall	42	37	5	0
Runnels	18	18	0	0
Rusk	69	64	5	0
Sabine	0	0	0	0
San Augustine	54	51	3	0
San Jacinto	34	32	2	0
San Patricio	158	149	9	0
San Saba	6	6	0	0
Schleicher	0	0	0	0
Scurry	37	32	5	0
Schackelford	10	7	3	0
Shelby	40	35	5	0
Sherman	4	3	1	0
Smith	60	55	5	0
Somervell	3	3	0	0
Starr	0	0	0	0
Stephens	20	18	2	0
Sterling	*	*	*	*
Stonewall	5	5	0	0
Sutton	6	6	0	0
Swisher	17	15	2	0
Tarrant	2,033	1,704	329	0
Taylor	151	133	18	0
Terrell	0	0	0	0
Terry	20	14	6	0
Throckmorton	0	0	0	0
Titus	1	0	1	0
Tom Green	207	185	22	0
Travis	937	765	172	0
Trinity	20	18	2	0
Tyler	8	6	2	0
Upshur	36	32	4	0

TABLE 44-8. (Continued)

County	Total Arrests[a]	Sex		
		Male	Female	Unknown
Upton	8	7	1	0
Uvalde	30	28	2	0
Val Verde	63	56	7	0
Van Zandt	38	30 est	*	8
Victoria	147	133	14	0
Walker	1	1	0	0
Waller	10	9	1	0
Ward	11	11	0	0
Washington	43	38	5	0
Webb	34	34	0	0
Wharton	103	90	13	0
Wheeler	4	3	1	0
Wichita	444	374	70	0
Wilbarger	33	29 est	*	4
Willacy	26	25	1	0
Williamson	137	117	20	0
Wilson	18	17	1	0
Winkler	33	30	3	0
Wise	10	8	2	0
Wood	35	32	3	0
Yoakum	13	11	2	0
Young	25	22	3	0
Zapata	29	29	0	0
Zavala	1	1	0	0
State Phase II Total	30,864	26,666	4,186	12

* denotes Not Available.

a. All youth arrested were 17 years of age.

A county display by offenses for age of jurisdiction arrest cases is shown in Table 44-9. The largest category is public order (51 percent), which included drug and liquor violations. Personal offenses (murder, rape, robbery, assaults, and other personal offenses) represented seven and a half percent. Property offenses, consisting of burglary and other property offenses, totaled 28 percent. The "other general" category represented 14 percent and included status offenses, traffic offenses, offenses against the family, and other miscellaneous offenses. Figure 44-2 graphically displays this offense information, including the percentage of unknown offenses.

TABLE 44-9. TEXAS: YOUTH ARRESTS AS ADULTS DUE TO AGE OF JURISDICTION (BY COUNTY AND BY TYPE OF OFFENSE) IN 1978

County	Total Arrests	Offenses[a]										
		Murder/ Man-slaugh-ter	Rape	Rob-bery	As-sault/ Bat-tery	Aggra-vated As-sault	Other Personal	Bur-glary	Other Prop-erty	Public Order	Other General	Unknown
Anderson	44	0	0	2	4	0	1	7	7	14	9	0
Andrews	20	0	0	0	0	0	1	0	1	13	5	0
Angelina	118	0	1	1	2	1	5	14	11	74	9	0
Aransas	29	0	1	0	0	1	0	3	2	21	1	0
Archer	64	0	0	0	0	0	0	0	0	33	31	0
Armstrong	8	0	0	0	0	0	0	0	0	7	1	0
Atascosa	34	0	0	0	2	1	1	1	4	22	3	0
Austin	16	0	0	0	0	0	0	2	3	11	0	0
Bailey	17	0	0	0	0	1	0	3	3	7	3	0
Bandera	25	0	0	0	0	0	0	4	0	18	3	0
Bastrop	42	0	0	0	0	1	0	6	7	25	3	0
Baylor	9	0	0	0	0	0	0	1	2	6	0	0
Bee	101	0	0	1	1	0	0	13	14	66	6	0
Bell	233	0	1	3	9	1	4	30	35	129	21	0
Bexar	1,718	1	3	34	18	8	23	148	363	893	227	0
Blanco	2	0	0	0	0	0	0	0	0	1	1	0
Bosque	9	0	0	0	1	0	0	2	3	3	0	0
Bowie	38	0	0	0	0	2	1	2	2	28	3	0
Brazoria	403	0	2	1	14	5	12	48	62	216	43	0
Brazos	106	1	0	2	0	0	5	11	20	57	10	0

TABLE 44-9. (Continued)

County	Total Arrests	Offenses[a]										
		Murder/ Man- slaugh- ter	Rape	Rob- bery	As- sault/ Bat- tery	Aggra- vated As- sault	Other Personal	Bur- glary	Other Prop- erty	Public Order	Other General	Unknown
Brewster	19	0	0	0	0	0	2	0	6	9	2	0
Briscoe	4	0	0	0	0	0	0	4	0	0	0	0
Brooks	12	0	0	0	0	0	0	5	0	7	0	0
Brown	98	1	0	13	0	0	2	15	18	36	13	0
Burleson	24	0	0	0	1	2	0	5	2	13	1	0
Burnet	29	0	0	0	0	0	0	11	4	13	1	0
Caldwell	40	0	1	1	3	0	1	3	3	18	10	0
Calhoun	69	0	0	0	1	0	0	8	11	41	8	0
Callahan	14	0	0	1	0	0	1	0	2	8	2	0
Cameron	562	2	5	4	7	14	7	49	138	261	75	0
Camp	2	0	0	0	0	0	0	0	1	1	0	0
Carson	13	0	0	0	0	0	0	2	4	4	3	0
Cass	42	0	0	0	1	0	2	3	4	26	6	0
Castro	19	0	0	0	1	0	0	0	5	12	1	0
Chambers	69	0	0	1	0	2	1	6	6	45	8	0
Cherokee	43	1	0	0	1	1	1	8	13	17	1	0
Childress	12	0	0	0	0	0	0	1	1	9	1	0
Clay	5	0	0	0	0	0	0	0	0	4	1	0
Cochran	20	0	0	0	0	0	1	3	0	13	3	0
Coke	4	0	0	0	0	0	0	0	1	2	1	0

TABLE 44-9. (Continued)

County	Total Arrests	Offenses[a]										
		Murder/ Man-slaugh-ter	Rape	Rob-bery	As-sault/ Bat-tery	Aggra-vated As-sault	Other Personal	Bur-glary	Other Prop-erty	Public Order	Other General	Unknown
Coleman	13	0	0	0	0	0	0	1	5	7	0	0
Collin	456	0	1	4	2	1	3	52	30	169	194	0
Collingsworth	3	0	0	0	0	0	0	1	0	1	1	0
Comal	73	0	0	0	1	2	2	2	9	50	7	0
Comanche	13	0	0	0	0	0	0	0	3	7	3	0
Concho	1	0	0	0	0	0	0	0	0	1	0	0
Cooke	96	0	0	0	0	0	2	11	15	61	7	0
Coryell	106	0	0	1	2	3	4	10	17	42	27	0
Crockett	2	0	0	0	0	0	0	0	1	0	1	0
Crosby	10	0	0	0	0	0	0	1	1	6	2	0
Culberson	1	0	0	0	0	0	0	0	0	1	0	0
Dallam	22	0	0	0	2	0	0	1	3	16	0	0
Dallas	5,473	8	16	117	113	93	158	469	1,092	2,305	1,102	0
Dawson	39	0	0	0	0	0	0	7	3	22	7	0
Deaf Smith	14	0	0	0	0	2	0	0	3	2	7	0
Denton	358	1	0	2	6	2	3	18	62	211	53	0
De Witt	27	0	1	0	0	0	0	0	1	22	3	0
Dickens	4	0	0	0	0	0	0	0	1	3	0	0
Dimmit	45	0	0	0	0	0	0	2	2	36	5	0
Duval	49	0	0	0	3	0	0	2	1	22	21	0

TABLE 44-9. (Continued)

County	Total Arrests	Offenses[a]										
		Murder/ Man-slaugh-ter	Rape	Rob-bery	As-sault/ Bat-tery	Aggra-vated As-sault	Other Personal	Bur-glary	Other Prop-erty	Public Order	Other General	Unknown
Eastland	26	0	0	2	2	0	0	0	2	18	2	0
Ector	340	2	0	7	5	4	4	10	45	202	61	0
Edwards	2	0	0	0	0	0	0	0	0	2	0	0
Ellis	149	0	0	2	4	3	3	26	20	74	17	0
El Paso	1,281	5	2	7	31	33	28	85	312	535	243	0
Erath	16	0	0	0	1	0	0	5	0	6	4	0
Falls	14	0	0	0	1	0	0	0	1	5	7	0
Fannin	36	0	0	0	0	1	2	3	7	21	2	0
Fayette	4	0	0	0	0	0	0	0	0	4	0	0
Fisher	8	0	0	0	0	0	0	1	0	6	1	0
Floyd	18	0	0	0	1	0	0	1	4	9	3	0
Foard	5	0	0	0	0	0	0	1	0	4	0	0
Fort Bend	152	0	1	5	5	5	1	19	11	97	8	0
Franklin	17	0	0	0	1	0	1	6	1	7	1	0
Freestone	37	0	0	0	0	0	1	2	6	22	6	0
Frio	20	0	0	0	0	2	2	2	0	9	5	0
Gaines	19	0	0	1	0	0	0	0	0	17	1	0
Galveston	709	2	2	5	15	12	9	29	96	471	68	0
Garza	8	0	0	0	0	0	0	0	0	4	4	0
Gillespie	11	0	0	0	0	0	0	1	2	6	2	0

TABLE 44-9. (Continued)

County	Total Arrests	Offenses[a]										
		Murder/ Man-slaugh-ter	Rape	Rob-bery	As-sault/ Bat-tery	Aggra-vated As-sault	Other Personal	Bur-glary	Other Prop-erty	Public Order	Other General	Unknown
Goliad	6	0	0	0	0	0	0	1	0	3	2	0
Gonzales	9	0	0	0	0	0	0	0	1	7	1	0
Gray	39	0	0	0	1	0	0	7	7	12	12	0
Grayson	389	0	1	0	2	3	4	37	75	238	29	0
Gregg	168	2	0	1	3	3	7	21	44	79	8	0
Grimes	21	0	1	0	1	1	0	1	7	9	1	0
Guadalupe	144	0	3	0	2	6	1	9	16	89	18	0
Hale	43	0	0	0	1	0	1	3	7	20	11	0
Hall	13	0	0	0	0	0	0	0	2	11	0	0
Hamilton	8	0	0	0	2	0	0	0	1	4	1	0
Hansford	14	0	0	0	0	0	1	3	5	3	2	0
Hardeman	16	0	0	0	0	0	0	2	1	10	3	0
Hardin	38	0	0	0	0	2	0	2	7	21	6	0
Harris	5,578	16	13	111	159	31	130	308	1,153	3,054	603	0
Harrison	32	1	0	2	0	0	2	4	4	19	0	0
Hartley	3	0	0	0	0	0	0	3	0	0	0	0
Haskell	1	0	0	0	0	0	0	0	0	1	0	0
Hays	70	0	3	1	1	0	0	6	14	37	8	0
Henderson	52	0	0	0	1	0	0	13	4	31	3	0
Hidalgo	320	0	1	2	4	1	0	20	30	237	25	0

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TABLE 44-9. (Continued)

County	Total Arrests	Offenses[a]										
		Murder/ Man-slaugh-ter	Rape	Rob-bery	As-sault/ Bat-tery	Aggra-vated As-sault	Other Personal	Bur-glary	Other Prop-erty	Public Order	Other General	Unknown
Hill	38	0	2	0	0	0	0	4	9	20	3	0
Hockley	23	0	0	0	0	0	1	1	1	12	8	0
Hood	22	0	0	0	0	0	0	1	2	16	3	0
Hopkins	56	0	0	0	2	1	0	1	8	30	14	0
Howard	56	0	0	0	0	2	2	3	5	36	8	0
Hudspeth	7	0	0	0	0	0	0	0	3	4	0	0
Hunt	110	1	0	0	1	0	1	14	26	57	10	0
Hutchinson	66	0	0	1	3	0	1	4	13	35	9	0
Jack	6	0	0	0	2	0	0	0	0	4	0	0
Jackson	20	0	0	0	0	0	0	4	1	14	1	0
Jasper	105	0	0	0	0	0	0	9	10	76	10	0
Jeff Davis	2	0	0	0	0	0	0	1	1	0	0	0
Jefferson	469	2	1	16	6	3	8	46	136	186	65	0
Jim Hogg	1	0	0	0	0	0	0	0	0	1	0	0
Jim Wells	10	0	0	0	0	0	0	0	2	7	1	0
Johnson	182	0	1	2	3	5	5	9	25	77	55	0
Jones	62	0	0	0	0	0	0	0	5	50	7	0
Karnes	48	0	0	0	0	0	0	5	3	34	6	0
Kaufman	68	0	0	2	2	0	1	10	16	31	6	0
Kendall	7	0	0	0	0	0	0	0	2	4	1	0

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TABLE 44-9. (Continued)

County	Total Arrests	Offenses[a]										
		Murder/ Man- slaugh- ter	Rape	Rob- bery	As- sault/ Bat- tery	Aggra- vated As- sault	Other Personal	Bur- glary	Other Prop- erty	Public Order	Other General	Unknown
Kerr	79	0	0	0	0	1	0	5	12	49	12	0
Kimble	5	0	0	0	0	0	0	3	2	0	0	0
Kleberg	49	0	1	0	6	2	1	8	4	18	9	0
Lamar	87	0	0	0	0	0	2	11	10	42	22	0
Lamb	78	0	0	2	1	0	0	6	8	47	14	0
Lampasas	36	0	1	0	1	0	2	7	5	17	3	0
Lavaca	14	0	0	0	0	0	1	1	2	3	7	0
Lee	15	1	0	0	1	1	0	2	2	3	5	0
Leon	15	0	0	1	0	0	0	0	3	9	2	0
Liberty	21	0	0	0	1	0	0	1	4	13	2	0
Limestone	10	0	0	0	0	0	1	0	0	8	1	0
Live Oak	18	0	0	0	0	0	0	2	1	15	0	0
Llano	6	0	0	0	0	0	0	0	3	2	1	0
Lubbock	425	2	6	9	4	7	10	0	205	160	22	0
Lynn	2	0	0	0	1	0	0	1	0	0	0	0
McCulloch	9	0	0	0	0	0	1	0	1	6	1	0
McLennan	275	0	0	11	7	8	10	19	79	114	27	0
Madison	4	0	0	0	1	1	1	1	0	0	0	0
Marion	26	0	0	0	0	1	0	1	0	17	7	0
Martin	7	0	0	0	0	0	0	2	0	5	0	0

TABLE 44-9. (Continued)

County	Total Arrests	Offenses[a]										
		Murder/ Man-slaughter	Rape	Rob-bery	As-sault/ Bat-tery	Aggra-vated As-sault	Other Personal	Bur-glary	Other Prop-erty	Public Order	Other General	Unknown
Mason	7	0	0	0	0	0	0	0	2	2	3	0
Matagorda	60	0	0	0	1	0	1	7	5	41	5	0
Maverick	111	0	0	0	2	2	0	4	24	66	13	0
Medina	15	0	0	0	0	0	0	1	1	5	8	0
Menard	1	0	0	0	0	0	0	0	0	1	0	0
Midland	70	0	0	1	3	1	3	4	6	47	5	0
Milam	21	0	0	0	0	2	1	0	7	7	4	0
Mitchell	16	0	0	0	0	0	0	1	0	10	5	0
Montague	30	0	0	0	0	0	0	3	2	23	2	0
Montgomery	48	0	0	1	0	0	1	1	8	35	2	0
Moore	8	0	0	0	0	0	0	0	0	1	7	0
Morris	36	0	0	1	0	1	1	4	4	19	6	0
Motley	2	0	0	0	0	0	0	1	0	1	0	0
Nacogdoches	89	0	1	2	3	3	1	5	34	34	6	0
Navarro	28	0	0	0	1	3	1	5	3	8	7	0
Newton	31	0	0	0	0	2	0	1	2	22	4	0
Nolan	14	0	0	0	0	0	1	0	1	9	3	0
Nueces	786	7	1	13	9	12	19	76	163	426	60	0
Ochiltree	35	0	0	0	1	2	1	5	5	15	6	0
Oldham	1	0	0	0	0	0	0	0	0	0	1	0

TABLE 44-9. (Continued)

County	Total Arrests	Offenses[a]										
		Murder/ Man- slaugh- ter	Rape	Rob- bery	As- sault/ Bat- tery	Aggra- vated As- sault	Other Personal	Bur- glary	Other Prop- erty	Public Order	Other General	Unknown
Orange	168	1	0	4	3	4	2	18	43	78	15	0
Palo Pinto	56	2	0	0	1	0	0	5	4	41	3	0
Panola	6	0	0	0	0	0	0	0	1	5	0	0
Parker	95	0	0	2	2	0	0	16	14	46	15	0
Parmer	6	0	0	0	0	1	0	0	4	0	1	0
Pecos	6	0	0	0	0	0	0	0	1	2	3	0
Potter	403	0	1	4	20	6	12	23	94	211	32	0
Presidio	6	0	0	0	0	0	0	0	1	5	0	0
Randall	13	0	0	1	1	0	0	2	2	6	1	0
Reagan	2	0	0	0	0	1	0	1	0	0	0	0
Real	1	0	0	0	0	0	0	0	0	1	0	0
Red River	8	0	0	0	0	2	0	1	2	3	0	0
Reeves	46	1	0	0	3	0	0	3	7	21	11	0
Refugio	10	0	0	0	0	0	0	0	0	7	3	0
Roberts	1	0	0	0	0	0	0	0	1	0	0	0
Robertson	20	0	2		0	0	0	7	2	4	5	0
Rockwall	42	1	0		0	0	1	6	3	26	5	0
Runnels	18	0	0	1	0	0	0	3	0	14	0	0
Rusk	69	1	0	1	0	1	2	10	12	29	13	0
San Augustine	54	0	0	0	0	0	0	2	12	35	5	0

TABLE 44-9. (Continued)

County	Total Arrests	Offenses[a]										
		Murder/ Man- slaugh- ter	Rape	Rob- bery	As- sault/ Bat- tery	Aggra- vated As- sault	Other Personal	Bur- glary	Other Prop- erty	Public Order	Other General	Unknown
San Jacinto	34	0	1	0	0	0	0	0	2	31	0	0
San Patricio	158	0	0	0	2	1	1	18	19	107	10	0
San Saba	6	0	0	0	0	0	0	3	1	2	0	0
Scurry	37	0	0	1	0	1	0	4	2	26	3	0
Schackelford	10	0	0	0	1	0	0	0	0	7	2	0
Shelby	40	1	*	*	1	1	*	*	3	28	4	2
Sherman	4	0	0	0	0	0	0	0	0	4	0	0
Smith	60	0	0	0	0	1	2	6	7	26	18	0
Somervell	3	0	0	0	0	0	0	0	0	3	0	0
Stephens	20	0	0	0	0	0	0	2	3	13	2	0
Stonewall	5	0	0	0	0	0	0	1	1	2	1	0
Sutton	6	0	0	0	0	0	0	0	1	5	0	0
Swisher	17	0	0	0	3	0	0	3	3	7	1	0
Tarrant	2,033	9	6	47	32	35	38	228	472	986	180	0
Taylor	151	0	0	2	4	0	0	9	14	117	5	0
Terry	20	0	0	0	0	0	1	1	4	12	2	0
Titus	1	0	0	0	0	0	0	0	0	1	0	0
Tom Green	207	0	1	2	4	2	8	6	29	135	20	0
Travis	937	1	2	17	36	12	22	106	273	365	103	0
Trinity	20	0	1	3	0	0	0	1	7	8	0	0

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TABLE 44-9. (Continued)

County	Total Arrests	Offenses[a]										
		Murder/ Man-slaugh-ter	Rape	Rob-bery	As-sault/ Bat-tery	Aggra-vated As-sault	Other Personal	Bur-glary	Other Prop-erty	Public Order	Other General	Unknown
Tyler	8	0	0	0	0	2	0	0	2	2	2	0
Upshur	36	0	0	1	0	1	1	7	6	9	11	0
Upton	8	0	0	0	0	0	0	2	0	3	3	0
Uvalde	30	0	0	0	0	0	2	0	3	17	8	0
Val Verde	63	0	0	1	0	1	1	11	17	23	9	0
Van Zandt	38	0	0	0	2	1	1	7	4	14	9	0
Victoria	147	1	0	0	1	2	3	10	42	59	29	0
Walker	1	0	0	0	0	0	0	0	1	0	0	0
Waller	10	0	0	0	0	2	0	0	2	3	3	0
Ward	11	0	0	0	0	0	0	1	1	9	0	0
Washington	43	0	1	0	0	3	0	1	7	29	2	0
Webb	34	0	0	0	0	0	0	6	5	23	0	0
Wharton	103	0	0	0	3	1	2	5	22	63	7	0
Wheeler	4	0	0	0	0	0	0	1	3	0	0	0
Wichita	444	2	2	2	0	6	8	41	74	264	45	0
Wilbarger	33	0	0	0	0	0	0	1	1	19	12	0
Willacy	26	0	0	0	3	2	0	5	1	11	4	0
Williamson	137	0	4	0	1	0	5	18	18	72	19	0
Wilson	18	0	0	0	0	0	0	0	3	15	0	0
Winkler	33	0	0	0	0	1	0	0	3	26	3	0

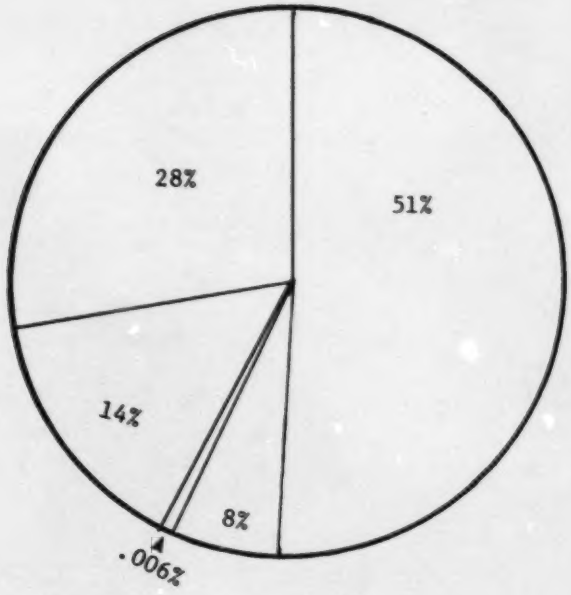
TABLE 44-9. (Continued)

County	Total Arrests	Offenses[a]										
		Murder/ Man- slaugh- ter	Rape	Rob- bery	As- sault/ Bat- tery	Aggra- vated As- sault	Other Personal	Bur- glary	Other Prop- erty	Public Order	Other General	Unknown
Wise	10	0	0	0	0	0	0	0	2	7	1	0
Wood	35	0	0	0	1	0	2	1	2	20	9	0
Yoakum	13	0	0	0	0	0	0	0	0	13	0	0
Young	25	0	0	1	0	0	0	0	2	21	1	0
Zapata	29	0	0	0	2	1	0	1	1	21	3	0
Zavala	1	0	0	0	0	0	0	0	0	0	1	0
State Total	30,864	76	94	486	626	401	632	2,529	6,034	15,727	4,257	2

* denotes Not Available.

a. Only most serious offense per individual listed.

FIGURE 44-2. TEXAS: PERCENTAGE OF YOUTH ARRESTS AS ADULTS DUE TO AGE OF JURISDICTION (BY OFFENSE CATEGORY) IN 1978



Offenses[a]

Personal	8%
Property	28%
Public Order	51%
Other General	14%
Unknown	.006%

N= 30,864

a. Violent offenses (murder/manslaughter, rape, robbery and aggravated assault) represent three percent of all arrests of 17 year olds in the state.

Table 44-10 presents another perspective on the nature of the charges involved in the arrests of 17 year olds. Personal offenses represented eight percent of the total arrests. Violent offenses (murder, manslaughter, rape, aggravated assault, and robbery) represented three percent of the state offense totals. Arson and the "other personal" category, which includes weapons violations and sex offenses other than rape and sodomy, represented 27 percent (632) of all personal offenses. Robbery and aggravated assaults represented about one-third and assault and battery, one-quarter, of all personal offense arrests of 17 year olds in Texas in 1978. Burglary and larceny/theft accounted for 85 percent of the property offenses. Liquor violations account for over 50 percent of public order offenses. Under the Public Order category, "other public order" offenses included gambling, vagrancy, disorderly conduct, prostitution, and suspicious persons. Offenses, such as carrying weapons in premises that serve alcohol, some assaults, gambling, sexual abuse, rape of a child, vice offenses, conspiracies, accepting a bribe, jumping bail, escapes, obscenities, fireworks, and other weapons charges are included in the "other general" subcategory. The way in which the "other general" subcategory is used is specific to Texas and does <u>not</u> correspond to the usage in other states.

TABLE 44-10. TEXAS: YOUTH ARRESTS AS ADULTS DUE TO AGE OF JURISDICTION (BY OFFENSE TYPE AND FREQUENCY) IN 1978

Types of Offenses	Violent Offense Subtotals	Offense Category Subtotals	Totals
PERSONAL OFFENSES			2,315
Violent Offenses		1,057	
Murder	66		
Manslaughter	10		
Rape	94		
Robbery	486		
Aggravated Assault	401		
Arson		25	
Kidnapping		0	
Assault/Battery		626	
Other Personal		607	
PROPERTY OFFENSES			8,363
Burglary		2,329	
Larceny		4,758	
Auto Theft		873	
Trespassing		0	
Other Property		403	
PUBLIC ORDER OFFENSES			15,727
Drug Violations		4,290	
Liquor Violations		8,193	
Other Public Order		3,244	
OTHER GENERAL OFFENSES			4,257
Status Offenses[a]		185	
Offenses Against the Family		29	
Other General[b]		4,043	
UNKNOWN			2
TOTAL			30,864

a. According to Texas Identification and Criminal Records Division, arrests may have been made for status offenses occurring before these youth attained majority or for offenses so designated which do apply to adults.

b. According to state sources, the most common offenses included in this category in 1978 (the category has since been altered) were carrying weapons in premises that serve alcohol, assaults, and gambling. Other offenses included sexual abuse, vice offenses, conspiracies, accepting bribes, jumping bail, escapes, obscenity, fireworks, and minor weapons charges. Municipal offenses are not included except those appealed (mostly driving while under the influence of alcohol and drug violations). The offenses included in this category are specific to Texas and vary from the offenses included in this category in other states.

Because Tables 44-8, 44-9, and 44-10 were extracted from arrest data, no information is available relating to judgments and sentences.

Table 44-11 is included in order to assist the reader in understanding the relationship between the totals found in the preceding tables. Out of 211 reported waivers in 1978, 154 cases were singled out for Phase II investigation. Fifty-three of those cases about which judgments were known (61) resulted in convictions. Of the 50 cases where sentences were known, 40 youth were sent to state adult facilities for periods of incarceration. All data on 17 year olds (age, sex, race, and offense) were presented for all cases. Judgment and sentencing data were not available.

TABLE 44-11. TEXAS: SUMMARY OF TABLES
(BY LEGAL MECHANISM)

	Judicial Waiver	Age of Jurisdiction
Total Referrals to Adult Courts in 1978 (Table 44-1)	211	30,862
Total Referrals Selected for Phase II (Tables 44-3 and 44-8)	154	30,862
Total Referrals Resulting in Convictions (Table 44-6)	53	*
Total Convictions Resulting in Sentences of Confinement (Table 44-7)	40	*

* denotes Not Available.

Routinely Handled Traffic Offenses

This section presents estimated information, by county, on the number of youth, ages 14 to 17, who were referred to adult courts for routine traffic offenses. Most of the municipal and justice of the peace courts could not report this information, despite herculean efforts by the League of Women Voters to obtain it. The result is a data set consisting of reported frequencies (frequently estimated by local officials), in 62 of the state's 254 counties. However, there may be additional cases, even within those counties, due to the large numbers of courts that hear such cases, not all of which reported in the 62 counties.

Recognizing its fragmentary nature, Table 44-12 presents the available data, for whatever it might be worth. If one were to assume that the data reported for the 62 counties were fairly complete, it could be argued that between 60,000 and 75,000 youth, between the ages of 14 and 17, are referred to such courts for traffic offenses each year.

TABLE 44-12. TEXAS: JUVENILE REFERRALS TO ADULT COURTS FOR EXCLUDED TRAFFIC OFFENSES (BY COUNTY, JUVENILE POPULATION AND FREQUENCY OF OFFENSES) IN 1978

	Juvenile Population (Ages 8-17)[a]	Number of Excluded Traffic Offenses
Anderson	4,926	2,650 est
Andrews	2,083	*
Angelina	10,018	*
Aransas	1,814	*
Archer	1,130	50 est
Armstrong	255	*
Atascosa	3,925	*
Austin	2,331	*
Bailey	1,556	0
Bandera	897	*
Bastrop	3,493	*
Baylor	698	111
Bee	4,417	*
Bell	24,147	*
Bexar	179,034	*

TABLE 44-12. (Continued)

	Juvenile Population (Ages 8-17)[a]	Number of Excluded Traffic Offenses
Blanco	557	*
Borden	123	1
Bosque	1,523	300 est
Bowie	12,169	*
Brazoria	23,893	*
Brazos	10,815	*
Brewster	1,346	*
Briscoe	372	100 est
Brooks	1,672	*
Brown	4,754	*
Burleson	1,780	*
Burnet	2,173	*
Caldwell	3,608	*
Calhoun	3,868	*
Callahan	1,463	*
Cameron	37,901	*
Camp	1,372	*
Carson	1,198	*
Cass	4,632	3 est
Castro	2,411	*
Chambers	2,458	50 est
Cherokee	4,897	*
Childress	898	*
Clay	1,342	*
Cochran	1,048	*
Coke	594	6 est
Coleman	1,488	318 est
Collin	18,609	*
Collingsworth	607	*
Colorado	2,834	*
Comal	4,705	107
Comanche	1,700	*
Concho	431	5
Cooke	4,270	543
Coryell	5,884	*

TABLE 44-12. (Continued)

	Juvenile Population (Ages 8-17)[a]	Number of Excluded Traffic Offenses
Cottle	495	*
Crane	762	232 est
Crockett	818	*
Crosby	1,775	*
Culberson	836	414
Dallam	1,286	400 est
Dallas	260,010	960 est
Dawson	3,225	*
Deaf Smith	4,168	*
Delta	650	7 est
Denton	15,752	*
De Witt	2,890	*
Dickens	587	*
Dimmit	2,354	*
Donley	423	*
Duval	2,393	36 est
Eastland	2,191	10 est
Ector	18,379	*
Edwards	394	*
Ellis	9,265	*
El Paso	87,747	*
Erath	2,267	81 est
Falls	2,586	24
Fannin	3,453	92 est
Fayette	2,132	275 est
Fisher	920	*
Floyd	2,202	*
Foard	322	*
Fort Bend	15,737	*
Franklin	893	*
Freestone	1,781	*
Frio	2,809	*
Gaines	2,469	71
Galveston	34,367	*
Garza	905	*

TABLE 44-12. (Continued)

	Juvenile Population (Ages 8-17)[a]	Number of Excluded Traffic Offenses
Gillespie	1,741	*
Glasscock	271	*
Goliad	819	0
Gonzales	2,757	*
Gray	4,139	*
Grayson	12,997	*
Gregg	14,134	*
Grimes	2,002	0 est
Guadalupe	7,006	*
Hale	7,033	*
Hall	1,067	36 est
Hamilton	783	*
Hansford	1,219	10 est
Hardeman	898	*
Hardin	6,512	*
Harris	365,587	*
Harrison	7,747	*
Hartley	498	*
Haskell	1,230	*
Hays	5,091	*
Hemphill	653	*
Henderson	5,002	*
Hidalgo	50,047	*
Hill	3,181	*
Hockley	3,903	*
Hood	1,746	*
Hopkins	3,358	*
Houston	2,643	*
Howard	6,450	*
Hudspeth	602	*
Hunt	7,694	*
Hutchinson	3,897	*
Irion	176	*
Jack	925	*
Jackson	2,220	*

TABLE 44-12. (Continued)

	Juvenile Population (Ages 8-17)[a]	Number of Excluded Traffic Offenses
Jasper	5,048	*
Jeff Davis	267	*
Jefferson	42,360	*
Jim Hogg	968	0
Jim Wells	6,915	*
Johnson	9,906	*
Jones	2,500	*
Karnes	2,446	*
Kaufman	5,587	*
Kendall	1,448	*
Kenedy	124	*
Kent	225	0
Kerr	2,834	*
Kimble	734	25 est
King	76	3 est
Kinney	457	*
Kleberg	5,538	*
Knox	897	*
Lamar	6,583	0
Lamb	3,333	*
Lampasas	1,796	65 est
LaSalle	1,241	*
Lavaca	2,554	*
Lee	1,469	*
Leon	1,239	0
Liberty	7,065	58 est
Limestone	2,647	81
Lipscomb	586	17 est
Live Oak	1,114	*
Llano	1,019	*
Loving	11	0 est
Lubbock	35,119	*
Lynn	1,875	*
McCulloch	1,276	32 est
McLennan	23,872	*

TABLE 44-12. (Continued)

	Juvenile Population (Ages 8-17)[a]	Number of Excluded Traffic Offenses
McMullen	168	*
Madison	1,102	*
Marion	1,238	*
Martin	1,057	1 est
Mason	539	*
Matagorda	5,336	*
Maverick	5,225	*
Medina	4,394	*
Menard	449	*
Midland	13,288	*
Milam	3,528	125 est
Mills	481	*
Mitchell	1,500	*
Montague	2,382	*
Montgomery	16,952	*
Moore	2,791	650 est
Morris	2,246	*
Motley	213	0 est
Nacogdoches	5,781	*
Navarro	5,000	*
Newton	2,389	*
Nolan	2,734	*
Nueces	48,421	*
Ochiltree	1,635	*
Oldham	619	65 est
Orange	14,919	*
Palo Pinto	3,635	*
Panola	2,676	0 est
Parker	5,739	*
Parmer	2,217	*
Pecos	2,808	*
Polk	3,271	*
Potter	15,651	*
Presidio	921	*
Rains	626	*

TABLE 44-12. (Continued)

	Juvenile Population (Ages 8-17)[a]	Number of Excluded Traffic Offenses
Randall	11,776	*
Reagan	668	*
Real	388	*
Red River	2,290	*
Reeves	3,622	*
Refugio	1,751	*
Roberts	205	0 est
Robertson	2,484	*
Rockwall	1,739	*
Runnels	1,848	*
Rusk	5,879	*
Sabine	1,347	*
San Augustine	1,438	*
San Jacinto	1,494	*
San Patricio	10,885	*
San Saba	842	*
Schleicher	459	*
Scurry	3,010	*
Schackelford	412	*
Shelby	3,454	*
Sherman	670	25 est
Smith	18,419	1 est
Somervell	505	*
Starr	5,107	*
Stephens	1,258	960 est
Sterling	169	*
Stonewall	272	2
Sutton	810	*
Swisher	2,058	*
Tarrant	130,563	*
Taylor	18,224	*
Terrell	339	*
Terry	2,833	*
Throckmorton	277	4 est
Titus	3,115	*

TABLE 44-12. (Continued)

	Juvenile Population (Ages 8-17)[a]	Number of Excluded Traffic Offenses
Tom Green	13,079	11 est
Travis	59,455	*
Trinity	1,225	*
Tyler	2,236	*
Upshur	3,837	*
Upton	809	*
Uvalde	4,249	*
Val Verde	6,814	202 est
Van Zandt	4,435	20 est
Victoria	11,454	1,093 est
Walker	3,530	82 est
Waller	2,479	*
Ward	2,398	*
Washington	3,167	*
Webb	19,036	22
Wharton	6,824	*
Wheeler	863	11 est
Wichita	20,395	*
Wilbarger	2,272	*
Willacy	3,800	*
Williamson	8,937	*
Wilson	2,751	*
Winkler	1,623	*
Wise	3,583	*
Wood	3,090	*
Yoakum	1,447	*
Young	2,256	*
Zapata	914	*
Zavala	2,394	6 est
State Phase II Total	2,238,412	10,453 est

* denotes Not Available.

a. 1978 population estimates were developed by the National Center for Juvenile Justice using data from two sources: the 1970 national census and the National Cancer Institute 1975 estimated aggregate census.

FOOTNOTES

1. Texas Codes Annotated, Family Code, Section 51.02(1)(B).
2. Texas Codes Annotated, Family Code, Section 54.02.
3. Ibid., Subsection (h).
4. Texas Codes Annotated, Family Code, Section 51.03(a); and Texas Codes Annotated, Traffic Regulations, Section 106.
5. Vernon's Annotated Civil Statute, Article 2338-1.
6. Peterson v. State, 235 S.W.2d 138 (1950); Elliott v. State, 324 S.W.2d 218 (1959); Perry v. State, 350 S.W.2d 21 (1961); Hultin v. State, 351 S.W.2d 248 (1961); Foster v. State, 400 S.W.2d 552 (1966); Salazar v. State, 494 S.W.2d 548 (1973).
7. Whittaker v. Estelle, 509 F.2d 194 (1975).
8. Ex parte Matthews, 488 S.W.2d 434 (1973).
9. Jackson v. State, 449 S.W.2d 245 (1969); Buchanan v. State, 453 S.W.2d 479 (1970).
10. Garza v. State, 469 S.W.2d 169 (1971).
11. Forder v. State, 456 S.W.2d 378 (1970).
12. Johnson v. State, 551 S.W.2d 379 (1977); Matter of W.L.C., 562 S.W.2d 454 (1978); Matter of D.W.M., 562 S.W.2d 851 (1978); Grayless v. State, 567 S.W.2d 216 (1978).
13. Tatum v. State, 534 S.W.2d 678 (1976).
14. Ellis v. State, 543 S.W. 2d 135 (1976).
15. Hight v. State, 483 S.W.2d 256 (1972).
16. Moreno v. State, 511 S.W.2d 273 (1974).
17. Texas Codes Annotated, Family Code, Section 54.02(h).
18. Texas Codes Annotated, Family Code, Section 51.13(c).

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